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THE RIGHT TO DEVELOPMENT

Report of the High Commissioner for Human Rights submitted in accordance with Commission resolution 2000/5

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Introduction

1. The Commission on Human Rights, in its resolution 2000/5, and the General Assembly, in its resolution 54/175, invited the High Commissioner to submit a report to the Commission each year, in each case covering:

(a) The activities of her office relating to the implementation of the right to development as contained in her mandate;

(b) The implementation of the resolutions of the Commission and the General Assembly with regard to the right to development;

(c) Inter-agency coordination within the United Nations system for the implementation of relevant resolutions of the Commission in that regard.

This invitation was reaffirmed by the Assembly in resolution 55/108.

2. In accordance with resolution 54/175, the High Commissioner submitted a report on the right to development to the General Assembly (A/55/302).

3. The present report is submitted to the Commission in accordance with those resolutions.

4. The High Commissioner has chosen as a focus for the present report the framework for social development agreed by the international community at the World Summit for Social Development held at Copenhagen in 1995 which was the subject of a review by the General Assembly which convened its twenty-fourth special session, held at Geneva in June 2000, for that purpose. That framework consists of 10 commitments to implement social development, having as its goals full employment, poverty eradication and social integration. The 2000 review process resulted in the Report of the Ad Hoc Committee of the Whole of the twenty-fourth special session of the General Assembly[1] ("the outcome document"), which includes new initiatives for social development ("the new initiatives") within the original framework of 10 commitments agreed in 1995. These proposals were adopted by the General Assembly in its resolution S-24/2 (annex, part III).

5. This report focuses on some of the themes in the new initiatives agreed in June 2000 - poverty alleviation, the international financial architecture, corporate responsibility, gender mainstreaming, education, health, food, racial discrimination, indigenous people, good governance, and migrants and trafficked people. Under these headings, the report takes relevant articles of the Declaration on the Right to Development (the Declaration) and resolutions on the right to development, making appropriate reference to the new initiatives, and provides information on relevant activities of the international human rights machinery in that regard.

I. POVERTY ALLEVIATION

6. Under article 6 (3) of the Declaration, "States should take steps to eliminate obstacles to development resulting from the failure to observe civil and political rights, as well as economic, social and cultural rights". Poverty is increasingly recognized as both a cause and a consequence

of the denial of human rights. In resolution 2000/5 the Commission reiterated that "the existence of widespread absolute poverty inhibits the full and effective enjoyment of human rights and renders democracy and popular participation fragile" (para. 3 (b)). In Commitment 2 of the Copenhagen Declaration on Social Development,[2] Governments committed themselves to the goal of eradicating poverty and at the twenty-fourth special session the General Assembly agreed on new initiatives to assist in the realization of this commitment. Activities of the international human rights machinery are relevant to two of these initiatives.[3]

7. The United Nations Development Group (UNDG) has drafted the United Nations poverty strategy, "Halving Extreme Poverty, An Action Strategy for the United Nations" and its framework for action, "United Nations Poverty Strategy, Options for Action". The poverty strategy includes five poverty matrices. The Office of the High Commissioner for Human Rights (OHCHR) participated in the process and was involved in drafting the matrices, in particular matrix priority area 1 on promoting rights and responsibilities and empowering the poor, which reflects a human rights approach to alleviating poverty. A representative of OHCHR participated in the United Nations Retreat on Poverty in mid-July as part of the effort to finalize the Action Strategy.

8. OHCHR is also mandated by the Commission on Human Rights to organize an expert seminar to "consider the need to develop a draft declaration on extreme poverty and, if appropriate, to identify its specific points" (resolution 2000/12, para. 8 (a)). The seminar, which will take place in Geneva on 7 and 8 February 2001, will include participants from a broad base, including government representatives and experts from international organizations, universities and non-governmental organizations.

9. The independent expert on human rights and extreme poverty has characterized poverty as a denial of human rights and has recommended the establishment of a world global alliance for the eradication of extreme poverty (E/CN.4/2000/52, paras 84 and 85). In this regard the independent expert undertook consultations with international financial institutions in October 2000.

II. HEALTH

10. Article 8 (1) of the Declaration obliges States to "undertake, at the national level, all necessary measures for the realization of the right to development and [to] ensure, inter alia, equality of opportunity for all in their access to ... health services ...". Similarly, article 1 of the Declaration states that "The right to development is an inalienable human right ... in which all human rights and fundamental freedoms can be fully realized". In commitment 6 of the Copenhagen Declaration States commit themselves "to promoting and attaining the goals of universal and equitable access to ... the highest attainable standard of physical and mental health, and the access of all to primary health care ...". Activities on health described in the present report relate to several paragraphs of the outcome document.[4]

11. OHCHR has undertaken several measures to encourage Governments to enhance national measures concerning the implementation of human rights norms and standards in the context of HIV/AIDS. In particular, OHCHR has prepared briefing materials for the six treaty monitoring bodies. The briefing materials drew the attention of the members of the committees to issues

relevant to the respect of human rights in the context of HIV/AIDS. The briefing materials examined both issues of general concern, as well as issues of specific concern to the countries under examination by the various treaty bodies. The materials also identified relevant questions for the treaty body members to pose to the country delegations during the consideration of States parties' reports.

12. In accordance with resolution 1999/49 adopted by the Commission on Human Rights on the subject (considered biennially by the Commission), a note verbale was sent to Governments, United Nations bodies, specialized agencies, non-governmental organizations, the chairpersons of treaty bodies and four special rapporteurs requesting information on the implementation of HIV/AIDS-related rights, with specific reference to the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37, annex I). The information received is reflected in the report submitted to the Commission at its present session (E/CN.4/2001/80).

13. OHCHR has continued to be involved in enhancing cooperation with agencies with a view to integrating HIV/AIDS-related rights within their programmes and activities. The May 2000 session of the Inter-Agency Advisory Group on AIDS - co-chaired by OHCHR and the Joint United Nations Programme on HIV/AIDS (UNAIDS) - reviewed the linkages between HIV/AIDS and human rights as well as ways in which HIV/AIDS-related rights could be more effectively implemented at the national level through the United Nations resident coordinator as a means of mainstreaming human rights and HIV/AIDS in the national programmes of United Nations agencies. OHCHR, together with UNAIDS, has initiated collaboration with the United Nations Educational, Scientific and Cultural Organization that includes joint participation in an international consultation on "HIV/AIDS and Youth: Human Rights and Social Development". The result of the consultations will be a manual for youth organizations to be used as a resource tool for policy guidance in the area of HIV/AIDS and human rights.

14. OHCHR is contributing to the Global Strategy Framework and United Nations System Strategic Plan on HIV/AIDS for 2001-2005 in particular with regard to a matrix highlighting OHCHR activities, needs and future strategies to ensure a rights-based response to the pandemic. The Global Strategy itself provides a common framework for the response to the HIV/AIDS pandemic and enables the many independent actors in the response to formulate, re-evaluate and harmonize their strategies. The matrix underlines the linkage between HIV/AIDS programmes and the work of OHCHR, noting that first, the pandemic undermines the effective enjoyment of all human rights and second, that human rights are a crucial element in HIV/AIDS prevention and control strategies. The matrix notes that the role of OHCHR focuses on advocacy and normative work. As well, through the various field offices, OHCHR's role includes the provision of direct support to Governments at the country level. The matrix goes on to identify major accomplishments and lessons learned over the last five years and sets priorities and targets for the next five years.

15. The OHCHR office in Cambodia, together with the UNAIDS office in Cambodia, organized a training workshop on HIV/AIDS and human rights on 6 and 7 September 2000. The overall objective of the workshop was to provide training to the staff of the Cambodia office and key Cambodian human rights NGOs on the medical and human rights perspectives of HIV/AIDS and the ways in which HIV/AIDS issues can be integrated into the organizations' work and future activities. The workshop was the first OHCHR-UNAIDS joint activity at the country

level. The discussions raised awareness of HIV/AIDS issues and led to a series of conclusions and recommendations to assist in the integration of these issues in the OHCHR and NGO activities in Cambodia and to fuel momentum on HIV/AIDS and human rights work at the national level.

16. OHCHR participated in a seminar organized by the United Nations Conference on Trade and Development and an NGO, Rights and Humanity, in November 2000 that focused on human rights approaches to intellectual property protection of pharmaceuticals. OHCHR presented a paper to the seminar looking at the relationship between the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and its impact on the right to development and the right to health, as well as on article 15 of the International Covenant on Economic, Social and Cultural Rights.[5]

17. In August 2000, the Sub-Commission on the Promotion and Protection of Human Rights adopted resolution 2000/7 on intellectual property rights and human rights. The Sub-Commission, noting that actual or potential conflicts exist between the implementation of the TRIPS Agreement and the realization of economic, social and cultural rights in relation to ... access to patented pharmaceuticals and the implications for the enjoyment of the right to health, requested the High Commissioner for Human Rights to undertake an analysis of the human rights impacts of the TRIPS Agreement.

III. EDUCATION

18. Article 8 (1) of the Declaration also obliges States to ensure equality of opportunity for all in their access to education and commitment 6 of the Copenhagen Declaration also mentions "quality education" (see para. 10 above). Activities of the international human rights machinery that concern education are relevant to several paragraphs of the outcome document.[6]

19. The Special Rapporteur on the right to education, Ms. Katarina Tomasevski, identified the need for greater financial support to promote the right to education. In her report to the Commission on Human Rights last year (E/CN.4/2000/6), the Special Rapporteur identified a legal framework for implementing the right to education as well as obstacles to the realization of the right, specifically a lack of financial support and poverty. In particular, the Special Rapporteur underlined the need for improved debt relief and development assistance to promote the right to education in developing countries. The Special Rapporteur also encouraged the incorporation of a human rights perspective in relation to the criteria used by lending institutions such as the World Bank in the provision of financial support for education.

20. In keeping with the themes identified in her report to the Commission, the Special Rapporteur was instrumental in ensuring that the Framework for Action for the achievement of education for all, adopted at the World Education Forum in Dakar in April 2000, included express references to the promotion and protection of human rights. The Commission on Human Rights welcomed the convening of the Forum in resolution 2000/9 adopted at its last session.

IV. FOOD

21. As with health and education, article 8 (1) of the Declaration also obliges States to take measures to ensure equal access to food. In its resolution 2000/10, the Commission decided to appoint a Special Rapporteur on the right to food. OHCHR has provided technical and administrative assistance to the Special Rapporteur since his appointment. The Special Rapporteur has submitted his first report to the Commission at its present session (E/CN.4/2001/53). In it, the Special Rapporteur illustrates the situation of access to food, stating that 826 million people are currently chronically or gravely undernourished. He also notes seven obstacles to the realization of the right to food including problems linked to international trade and commerce, debt servicing, aspects of the evolution of biotechnology, war, corruption, problems of accessing land and credit and discrimination against women.

V. GENDER MAINSTREAMING

22. Article 8 (1) of the Declaration states, in part, that "[e]ffective measures should be undertaken to ensure that women have an active role in the development process". Similarly in resolution 2000/5 the Commission affirmed "the need to apply a gender perspective in the implementation of the right to development, inter alia by ensuring that women play an active role in the development process", and emphasized that "the empowerment of women and their full participation on a basis of equality in all spheres of society is fundamental for development". The outcome document of the special session notes the need for gender mainstreaming in the implementation of initiatives for development.[7]

23. OHCHR is endeavouring to mainstream gender issues both within and outside the Office. In January and June 2000, OHCHR held gender mainstreaming training for staff - "Integrating a gender perspective into the work of the OHCHR" - over six sessions. The training covered gender concepts and frameworks, the relationship of gender to women's human rights, and the practical application of gender concepts and frameworks to the work of OHCHR at every level.

24. OHCHR has undertaken to develop a gender checklist on how to integrate gender issues throughout all OHCHR initiatives. There is a draft checklist that will be tested soon by both staff at headquarters and in the field. The checklist will help staff to integrate a gender perspective into all aspects of their work.

25. OHCHR also co-sponsored initiatives relevant to the issue of gender mainstreaming, including an expert group on gender and racial discrimination organized with the Department for the Advancement of Women for Zagreb and another expert group in Windhoek on the HIV/AIDS pandemic and its gender implications, both in November 2000.

VI. RACIAL DISCRIMINATION

26. Article 5 of the Declaration states that "States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, [and] all forms of racism and racial discrimination ...". The new initiatives of the outcome document also encourage the elimination of racial discrimination as a means of implementing social development.[8]

27. The report of the Secretary-General (E/CN.4/2001/20) provides details on relevant activities of the High Commissioner in her capacity as Secretary-General of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

VII. INDIGENOUS PEOPLE

28. Article 2 (3) of the Declaration states that "States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom." Similarly, the Commission, in resolution 2000/5, reaffirmed "the importance of the right to development for every human person and all peoples in all countries". In commitment 4 of the Copenhagen Declaration States commit themselves "to promoting social integration by fostering societies that are stable, safe and just and that are based on the promotion and protection of all human rights, as well as on non-discrimination, tolerance, respect for diversity, equality of opportunity, solidarity, security, and participation of all people, including disadvantaged and vulnerable groups and persons". The special session made new initiatives under commitment 4 that are specifically related to recognizing the contribution of indigenous people to society, in particular through encouraging the ongoing work on a draft declaration on the rights of indigenous people.[9]

29. The sixth meeting of the working group on a draft declaration on the rights of indigenous people took place in Geneva from 20 November to 1 December 2000. Besides acting as the secretariat for the working group, OHCHR is making efforts to promote a dialogue between States and indigenous people, with the aim of maximizing the participation of indigenous people in the partnerships that affect them.

30. The High Commissioner believes that the establishment of the Permanent Forum on Indigenous Issues within the United Nations system will afford an important opportunity for joint action in favour of human rights and indigenous peoples' development. In December 2000, the Secretary-General appointed OHCHR as the lead agency for the implementation of Council resolution 2000/22 on the establishment of a Permanent Forum on Indigenous Issues.

VIII. MIGRANTS AND TRAFFICKED PEOPLE

31. Article 2 (3) of the Declaration, as noted in the section on indigenous people, equally includes migrants and trafficked people with regard to the formulation of development policies for the entire population. Similarly, under commitment 4 of the Copenhagen Declaration, the special session included initiatives aimed at promoting and protecting the human rights of migrants and trafficked people.[10] OHCHR has been involved in activities relating to promoting the human rights of these groups.

32. The growth of trafficking and the sex industry are causes of major concern. Each year, millions of individuals, the vast majority of them women and children, are tricked, sold or coerced into situations of exploitation from which they cannot escape. Trafficked people suffer abuses of their human rights, in particular the rights to freedom from slavery, freedom of movement, and freedom from fear, discrimination and injustice. As a result, the High

Commissioner has placed a high priority on promoting and protecting the human rights of trafficked people. OHCHR has been involved in the drafting process of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime adopted by the General Assembly on 15 November 2000.

33. From 29 June to 1 July 2000, OHCHR jointly organized with the Council of Europe a regional seminar on "Coordinating action against trafficking in human beings in South-Eastern Europe: Towards a Regional Action Plan". OHCHR also actively participated in the seminar through the provision of background documents and speakers. From 26 to 28 July 2000, the first Consultative Group on trafficking met in Geneva. The Consultative Group is a three member expert group that has been created with two objectives. First, the Group should advise the High Commissioner on strategies related to trafficking. Second, the Group has been given the task of developing United Nations guidelines on the integration of human rights into national, regional and international anti-trafficking initiatives.

34. The Commission on Human Rights appointed Ms. Gabriela Rodriguez Pizarro as Special Rapporteur on the human rights of migrants in 1999. Since her appointment, the Special Rapporteur has placed a special emphasis on the situation of irregular migrants and trafficked and smuggled people, as well as on the problems of racial discrimination and xenophobia faced by non-citizens. The Special Rapporteur has also undertaken a mission to Canada and is planning a mission to Mexico and a mission to the Asian-Pacific region in 2001.

IX. THE INTERNATIONAL FINANCIAL ARCHITECTURE, STRUCTURAL ADJUSTMENT POLICIES AND DEBT

35. Article 3 (3) of the Declaration states that "... States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights". Further, article 4 (1) states that "States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development". In resolution 2000/5 the Commission reaffirmed that "structural reforms that do not take social realities into account could destablize democratization processes" (para. 4 (d)). Commitment 8 of the Copenhagen Declaration is to ensure "that when structural adjustment programmes are agreed to they include social development goals". In this context, activities of the human rights programme are relevant to several initiatives of the outcome document.[11]

36. The Committee on Economic, Social and Cultural Rights is, inter alia, using its monitoring role under the International Covenant on Economic, Social and Cultural Rights to consider the effects of structural adjustment policies on the ability of States to fulfil their obligations under the Covenant. For example, in one of its concluding observations the Committee noted the negative impact that structural adjustment programmes had on poverty, employment and income distribution as well as on the availability of social services.[12] The Committee has also made observations to donor countries calling on them to ensure, as members of the World Bank and the International Monetary Fund, that the policies of those institutions are in conformity with States' obligations under the Covenant.[13]

37. In its resolution 2000/82, the Commission on Human Rights stressed that structural adjustment policies have serious implications for the ability of the developing countries to abide by the Declaration on the Right to Development and to formulate national development policies that aim to improve the economic, social and cultural rights of their citizens. The Commission also requested the Economic and Social Council to authorize the working group on structural adjustment programmes and economic, social and cultural rights to meet for two weeks prior to its next session.

38. The Commission appointed Mr. Fantu Cheru as independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights. The independent expert has already submitted two reports (E/CN.4/1999/50 and E/CN.4/2000/51) in his capacity as independent expert on structural adjustment policies, the second in conjunction with the former Special Rapporteur on foreign debt. The independent expert was also requested to provide an advance copy of his annual report to the Working Group.

X. CORPORATE RESPONSIBILITY

39. Article 2 (2) of the Declaration states that "All human beings have a responsibility for development, individually and collectively ...". At the special session of the General Assembly, Governments included corporate social responsibility towards development as one of the elements under commitment 1 "to creating an economic, political, social, cultural and legal environment that will enable people to achieve social development". Activities of the international human rights machinery are relevant to encouraging corporate responsibility for social development according to the new initiatives under commitment 1.[14] In 1998, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, now the Sub-Commission on the Promotion and Protection of Human Rights, by resolution 1998/8, established a sessional working group to examine the working methods and activities of transnational corporations. The working group met in August 2000 for its second session to review the activities of transnational corporations as they affect the enjoyment of human rights; analyse existing standards regulating the activities of transnational corporations as they relate to human rights; and examine draft standards on the human rights conduct of companies (E/CN.4/Sub.2/2000/WG.2/WP.1 and Add.1 and Add.2). The working group recommended that independent experts of the Sub-Commission should update the working paper on the consequences of the working methods and activities of transnational corporations (E/CN.4/Sub.2/1998/6), revise and update the draft standards on the human rights conduct of companies, and prepare a working paper on procedures for the implementation of standards on the human rights conduct of companies (see E/CN.4/Sub.2/2000/12, para. 61).

40. At their annual meeting in June 2000 the special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights discussed the involvement of the private sector when addressing different human rights issues. Additionally, a number of special rapporteurs and independent experts had contacts with the private sector in the course of their human rights work. The report of that meeting is contained in document E/CN.4/2001/6.

41. During her official visits to countries around the world, the High Commissioner has increasingly been invited to meet with business leaders to discuss areas of common concern such as their possible involvement in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

42. OHCHR is one of the three bodies involved in the development of the Secretary-General's Global Compact initiative which calls on business leaders to join forces with the United Nations and civil society behind a set of core values in the areas of human rights, labour standards and the environment. Companies participating in the Compact have committed themselves to expressing their support publicly for the Compact and its principles in mission statements, annual reports and public announcements, engaging in dialogue with the United Nations and other partners, sharing concrete examples of progress made or lessons learned in implementing the principles of the Compact and undertaking activities jointly with the United Nations that advance the implementation of those principles or support wider goals such as poverty eradication.

43. OHCHR is working to increase the business community's awareness of the Universal Declaration of Human Rights and explore how companies can support it by expanding direct dialogue and information exchange with business leaders. Examples of such activities include training in human rights for business leaders organized by the United Nations Staff College and joint publications such as "Business and Human Rights: A Progress Report" prepared in cooperation with Business for Social Responsibility for the 2000 meeting of the World Economic Forum in Davos. Similarly, OHCHR prepared a publication - "Business and Human Rights: An Update" - for the High-Level Meeting on the Global Compact on 26 July 2000, again in an attempt to increase the awareness of the business community of the Universal Declaration. The report notes that: "The first half of 2000 has already shown the rapid pace at which the business community's role in promoting and protecting human rights is being framed for the new century. From the implications of mapping the human genome to the role of diamonds in fuelling conflict in Angola and Sierra Leone, from addressing the AIDS pandemic to halting trafficking in human beings, the links between business and human rights are becoming increasingly clear and higher on the international agenda." OHCHR is also encouraging business participation in raising public awareness about United Nations conferences such as the World Conference.

XI. GOOD GOVERNANCE

44. Article 3 of the Declaration on the Right to Development stipulates that "States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development". Ensuring good governance is an important aspect of the creation of such national conditions. In April 2000, the Commission adopted resolution 2000/64 entitled "The role of good governance in the promotion of human rights" which links good governance with development, emphasizing "that the strengthening of good governance at the national level, including through the building of effective and accountable institutions for promoting growth and sustainable human development, is a continuous process for all Governments regardless of the level of development of the countries concerned". The outcome

document also links good governance to development under commitment 1 with Governments undertaking to "make a renewed commitment to effective, transparent and accountable governance and democratic institutions that are responsive to the needs of people and enable them to take an active part in decision-making about priorities, policies and strategies".[15]

45. In its resolution on good governance the Commission requested the High Commissioner to invite all States to provide practical examples of activities that have been effective in strengthening good governance practices for the promotion of human rights at the national level, including activities in the context of development cooperation between States. OHCHR sent a note verbale requesting this information from States on 6 September 2000 and has compiled the replies received.

46. The technical cooperation programme of OHCHR has an important role to play in strengthening good governance at the national level. OHCHR has continued to provide technical cooperation to States seeking to strengthen their human rights capacities as part of their national development strategies, including through the strengthening of national human rights institution and institution-building generally, as well as the training of judges, police and the military. Technical cooperation projects are now being developed or implemented in approximately 40 countries.

47. OHCHR provided technical and administrative support for the sessional Working Group on the Administration of Justice of the Sub-Commission on the Promotion and Protection of Human Rights in August 2000. At its next session the working group will examine a background paper on "Discrimination in the criminal justice system" as well as a paper on "The domestic implementation in practice of the obligation to provide effective domestic remedies" to be prepared by independent experts of the Sub-Commission (see E/CN.4/Sub.2/2000/44).

48. The Special Rapporteur on freedom of opinion and expression has also discussed the positive link between the freedom of expression and development. In particular, the Special Rapporteur believes that new technology has diverse effects on development. He underlines the fact that many developing countries have much lower access to information technology than developed countries. This can negatively effect the freedom of expression and can result in a two-track approach to development.

XII. CONFLICT PREVENTION AND RESOLUTION

49. Article 7 of the Declaration states that "All States should promote the establishment, maintenance and strengthening of international peace and security ...". Similarly, in resolution 2000/5 the Commission reiterated that "for peace and stability to endure, national actions and international action and cooperation are required to promote a better life for all in larger freedom ...". New initiatives agreed by the special session also encourage conflict prevention and resolution.[16] Several activities of OHCHR are relevant to the implementation of these new initiatives.

50. OHCHR field presences are the main focus for United Nations human rights work in the field of conflict resolution. Field activities of the Office relevant to conflict resolution and management strategies generally relate to:

(a) Supporting national capacities of investigation and follow-up of human rights violations;

(b) Providing legal assistance to returnees and detained people;

(c) Providing continuous training to employees in the justice system, police, military forces and prison officers;

(d) Organizing human rights seminars for leaders and members of human rights organizations, women's associations and youth movements with the objective of promoting a culture of peace and reconciliation.

51. In Burundi, for example, the activities of the Office are closely linked to the implementation of the Arusha Peace Agreement. Cambodia hosted a meeting for Parliamentarians for Peace in the Asian-Pacific region in November 2000. The High Commissioner has also been active in conflict prevention and resolution in her national visits. From 8 to 16 November 2000, the High Commissioner visited the occupied Palestinian territories, Israel, Egypt and Jordan. During her visit, the High Commissioner noted that the occupation of the territories, in particular the closure of the territories and restrictions on the passage of people, materials and so on has had a negative impact on the enjoyment of the right to development. Consequently, in her report (E/CN.4/2001/114), the High Commissioner identified measures to prevent escalating violence, including through the promotion of the right to development. From 1 to 3 October 2000, the High Commissioner visited the Democratic Republic of the Congo. In Kinshasa, the High Commissioner spoke on "The human rights culture: condition for sustainable peace and development", emphasizing that the current armed conflict and growing insecurity in the country could not justify denying the Congolese population the full enjoyment of their human rights.

52. The United Nations is currently responsible for implementing the right to development in East Timor, through the creation of national infrastructure that will promote an environment in which citizens may enjoy the right to development.

53. The High Commissioner has also personally taken up the issue of post-conflict trauma. On 23 October 2000, she addressed a consultation on the mental health of refugees and internally displaced populations and other populations affected by war, organized by the World Health Organization. The High Commissioner spoke on "Recognizing human dignity and worth: the human rights of refugees, the internally displaced and other populations affected by war". In her speech, the High Commissioner stressed that human rights have a central role to play in protecting the most vulnerable.

XIII. NEW INITIATIVES BY OHCHR

54. The Office of the High Commissioner is also undertaking two new initiatives specifically related to the implementation of the goals of the special session in order to maintain the renewed momentum for social development generated in June 2000. First, in order to improve the dissemination of the new initiatives, OHCHR will include specific references and links to the Copenhagen Declaration and Programme of Action and follow-up thereto on its web page. As part of this exercise, OHCHR will compile normative statements by treaty bodies that are of particular relevance to the implementation of the 10 commitments for social development and will add them to the web page under a heading that specifically links them to the initiatives for social development. In this way, OHCHR hopes to join continuous and well-established monitoring mechanisms to the commitments made at Copenhagen.

55. Second, OHCHR has written to the relevant experts of the international human rights machinery, highlighting the new initiatives in the outcome document that are relevant to their activities.

Notes

[1] Official Records of the General Assembly, Twenty-fourth special session, Supplement No. 3 (A/S-24/8/Rev.1).

[2] Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995, (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annex I.

[3] Resolution S-24/2, annex, Part III, paras. 25 (reduce the proportion of people living in extreme poverty by one half by the year 2015) and 28 (developing and implementing pro-poor growth strategies).

[4] Ibid., paras. 97 (take measures at the national level to prevent and protect against HIV/AIDS infection and address the consequences of HIV/AIDS transmission, including: strengthening health-care services, strengthening information and education, training health-care providers, addressing mother-to-child transmission, analysing the political, cultural, social, economic and legal aspects of HIV/AIDS and providing social and educational support to affected groups; 101 (recognize the critical importance of access to essential medicines at affordable prices and acknowledge the contribution of intellectual property rights to promote research, development and distribution of drugs); 102 (analyse the consequences of agreements on trade in health services for health equity and meeting health needs of the poor); 103 (monitor and analyse the pharmaceutical and public health implications of relevant international agreements, including trade agreements); 104 (integrate the health dimension into United Nations policies and programmes); 122 (encourage the 25 African countries most affected by HIV/AIDS to adopt time-bound targets for reducing infection levels, such as a 25 per cent reduction among young people by the year 2005).

[5] Article 15 recognizes the right of everyone "(a) to take part in cultural life; (b) to enjoy the benefits of scientific progress and its applications; (c) to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

[6] Ibid., paras. 92 and 93 (reaffirm the Framework for Action on education for all adopted at the World Education Forum in Dakar and recognize that the achievement of this goal requires additional financial support, increased development assistance and debt relief, on the order of $8 billion a year).

[7] Ibid., para. 79 (ensure gender mainstreaming in the implementation of the commitments made at the Summit, including through the use of positive or affirmative action).

[8] Ibid., para. 60 (eliminate all forms of discrimination, including racial discrimination, xenophobia and related intolerance, and in this context support the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in South Africa in 2001).

[9] Ibid., paras. 62 (recognize the contribution of indigenous people to society and promote ways of giving them greater responsibility for their own affairs) and 63 (encourage the ongoing work on a draft declaration on the rights of indigenous people with the aim of achieving completion prior to the conclusion of the International Decade on the World's Indigenous People in 2004 and support the establishment of a United Nations permanent forum to discuss indigenous issues).

[10] Ibid., paras. 68 (intensify efforts to ensure the protection of the human rights and dignity of migrants irrespective of their legal status) and 69 (promote measures, at the national and international levels, to prevent illegal trafficking and transport of migrants and trafficking in persons).

[11] Ibid., paras. 8 (institute systems for assessing and monitoring the social impact of economic policies, with a particular focus on the formulation of macroeconomic policies for dealing with financial crises and the design of reform programmes); 13 (reduce negative impacts of international financial turbulence on economic and social development); 16 (ensure that additional financing is mobilized to fund debt relief and that funds saved should be used to support social development); and 129 (ensure that adjustment programmes to address economic crises do not lead to a severe drop in economic activity or sharp cuts in social spending).

[12] The Committee noted that "the Government's economic reform programme for 1998/99, which implemented the structural adjustment programme in Cameroon approved by the International Monetary Fund, the World Bank and the Caisse française de développement, while increasing the real GDP growth rate has impacted negatively on the enjoyment of economic, social and cultural rights by increasing poverty and unemployment, worsening income distribution and causing the collapse of social services" (E/C.12/1/Add.40 of 8 December 1999, para. 10). See also the concluding observations of the Committee on Mexico (E/C.12/1/Add.41 of 8 December 1999) at para. 34.

[13] See concluding observations on Italy (E/C.12/1/Add.43 of 23 May 2000), at para. 20.

[14] Ibid., para. 17 (encourage corporate social responsibility so that it contributes to social development goals by promoting corporate awareness, providing policy framework that supports and stimulates private-sector initiative aimed at achieving these goals, and enhancing national partnerships with business in support of the goals.

[15] Ibid., para. 3.

[16] Ibid., para. 74 (strengthen organizations and mechanisms for the prevention and peaceful resolution of conflicts).

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THE RIGHT TO DEVELOPMENT

Report of the Open-Ended Working Group on the Right to Development

Chairperson-Rapporteur: Mr. Mohammed-Salah Dembri (Algeria)

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Introduction

1. In its decision 1998/269, the Economic and Social Council, taking note of Commission on Human Rights resolution 1998/72 of 22 April 1998, endorsed the Commission's recommendation, in view of the urgent need to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development (General Assembly resolution 41/128, annex), to establish a follow-up mechanism, initially for a period of three years.

2. The mechanism would consist of the establishment of an Open-Ended Working Group to meet for a period of five working days each year, after the fifty-fifth and fifty-sixth sessions of the Commission on Human Rights, with a mandate:

   (a) To monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration;

   (b) To review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development;

   (c) To present for the consideration of the Commission on Human Rights a sessional report on its deliberations, including advice to the Office of the United Nations High Commissioner for Human Right with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries with the aim of promoting the implementation of the right to development;

3. The mechanism would also include the appointment by the Chairperson of the Commission on Human Rights of an Independent Expert with high competence in the field of the right to development, with a mandate to present to the Working Group at each of its sessions a study on the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, inter alia, the deliberations and suggestions of the Working Group.

4. H.E. Ambassador Mohamed-Salah Dembri (Algeria) was unanimously elected to the Chair of the Working Group in February 2000. While Council resolution 1998/269 of 30 July 1998 called for the Working Group to meet each year for five days, consensus was reached on the need for the Working Group to convene in two sessions, of five days each, before the fifty-seventh session of the Commission on Human Rights (Commission resolution 2000/5, para. 12).

I. FIRST SESSION OF THE OPEN-ENDED WORKING GROUP

A. Organization of the session

1. Opening of the session and election of officers

5. The Working Group held its first session from 18 to 22 September 2000. It was opened by the Chairperson, His Excellency Ambassador Dembri, in the presence of the United Nations High Commissioner for Human Rights, Ms. Mary Robinson.

6. The Chairperson made opening remarks to the Working Group . He highlighted a trend over the last decade – seen through the commitments of several world conferences - of increased emphasis on the social dimensions of economic development and globalization. He noted that it was essential to increase efforts to realize all human rights, especially the right to development. The Chairperson noted that globalization was marginalizing many developing countries. He observed that developing countries continued to suffer from unequal market access, falling commodity prices and the burden of servicing external debts. At the same time, they were trying to address the basic needs of the population including for primary health care, food and education. In that context, the Chairperson referred to the conclusion of the recent Group of eight (G-8) Summit in Okinawa, Japan, and welcomed the commitments made by the leading industrialized countries to narrow the gap between developed and developing countries.

2. Attendance

7. Representatives of the following States Members of the Commission on Human Rights attended the meetings of the Working Group , which were open to all members of the Commission: Argentina, Bangladesh, Bhutan, Brazil, Burundi, Canada, Chile, China, Colombia, Congo, Cuba, Cyprus, Czech Republic, Ecuador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Liberia, Luxembourg, Madagascar, Mexico, Morocco, Nepal, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Spain, Sri Lanka, Sudan, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela.

8. Representatives of the following States attended as observers: Afghanistan, Albania, Algeria, Austria, Australia, Azerbaijan, Bahrain, Belarus, Belgium, Bolivia, Bulgaria, Costa Rica, Côte d'Ivoire, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Ethiopia, Greece, Haiti, Iran (Islamic Republic of), Iraq, Ireland, Jordan, Kuwait, Lithuania, Malaysia, Mauritania, Netherlands, New Zealand, Panama, Paraguay, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Sweden, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, Uruguay, Viet Nam, Yemen and Zimbabwe. The Holy See and Switzerland were also represented by observers.

9. The following regional and international organizations were represented by observers: European Communities, League of Arab States, Organization of the Islamic Conference (OIC), International Organization for Migration (IOM).

10. The following United Nations bodies and specialized agencies were represented by observers: Food and Agriculture Organization of the United Nations (FAO), International Monetary Fund (IMF), Joint United Nations Programme on AIDS (UNAIDS), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Industrial Development Organization (UNIDO), United Nations Non-Governmental Liaison Service, United Nations Population Fund (UNFPA), World Bank, World Health Organization (WHO), World Intellectual Property Organization (WIPO) and World Trade Organization (WTO).

11. The following non-governmental organizations were represented by: African Commission of Health and Human Rights Promoters, Association for World Education, Baha'i International Community, Caritas Internationalis, Europe-Third World Centre, Franciscans International, Interfaith International, International Commission of Jurists, International Council of Women, International Federation of Rural Catholic Movements, International Federation of University Women, International Organization for the Development of Freedom of Education, International Service for Human Rights, International Young Catholic Students, Movement against Racism and for Friendship among Peoples, NGO Committee on the Status of Women, *Rights and Humanity: The International Movement for the Promotion and Realisation of Human Rights and Responsibilities,* World Federation of Methodist and Uniting Church Women, World Union of Catholic Women's Organizations and Zonta International.

3. Documentation

12. The list of documents for the Working Group is given in annex I.

4. Organization of work

13. At its first meeting, on 18 September 2000, the Working Group adopted its agenda, as contained in document E/CN.4/2000/WG.18/2.

B. Presentation of the report of the high commissioner

14. In introducing her report to the Working Group (E/CN.4/2000/WG.18/CRP.2), the High Commissioner highlighted the activities of her Office in promoting the right to development. The Office had been active in recent years in promoting a rights-based approach to development. It had provided inputs and background papers for the preparation and follow-up of the special sessions of the General Assembly on the five-year review of the Fourth World Conference on Women and the World Summit on Social Development. The Office had also provided technical and substantive support for the special rapporteurs and experts with mandates of the Commission on Human Rights relevant to the implementation of the right to development.

15. The Office had cooperated with Member States and civil society in organizing several seminars relevant to the right to development. The High Commissioner continued to exert

her efforts in integrating a human rights agenda within the development agencies of the United Nations system and the international financial institutions through advocating a rights-based approach. The Office also cooperated closely with UNDP in the preparation of the *Human Development Report 2000* which focused on human rights and human development.

16. The Office had participated actively in the United Nations Development Assistance Framework/Common Country Assessment (UNDAF/CCA) process, including its "Learning Network", in the context of its role in the United Nations Development Group (UNDG), and was in the process of developing guidelines and contributing to an indicator framework that would assist United Nations country teams to identify human rights issues of concern to development. The High Commissioner also reported on the deepening dialogue between her Office and the World Bank and the IMF, and welcomed the Bank's willingness to address human rights issues in its work.

17. Governmental and non-governmental delegations made statements to the Working Group following the presentation of the High Commissioner's report. Several delegations believed that alleviation of poverty was one of the most important issues to be addressed by the Working Group . Some believed that the Working Group should also examine the rights of women, children and vulnerable groups in society. One non-governmental organization (NGO) encouraged the Working Group to consider action needed to improve women's access to land and credit and to change laws and policies related to private inheritance. One delegation underlined the need to consider the role of civil society in the context of participation, a factor central to the right to development.

18. Delegations noted that the right to development had both national and international dimensions. Several noted that the State has the primary responsibility for implementing the right to development. While some delegations emphasized the national dimensions to the operation of the right, others underscored the need for the Working Group to discuss the international aspects of the right. One delegation stressed that developed countries should also consider mechanisms or measures favouring the effective participation of developing countries in global trade, in particular by facilitating market access for developing countries' exports. In the view of the delegation, this, independently of and alongside international financial assistance and technical cooperation, constituted the main source of genuine internal resources which were an important factor for the generation of economic and social development in developing countries. Delegations stated that at the national level, there was a need for responsible economic management and good governance. National Governments should create an enabling environment for the enjoyment of the right to development by ensuring popular participation in development, transparency, accountability, the rule of law, democratic government and respect for all human rights. One delegation valued the exchange of national practices through international seminars as a means of assisting national implementation of the right.

19. Some delegations identified specific areas for action at the international level. In particular, some delegations noted that market access for developing countries to developed country markets should be improved and the international financial system should be strengthened to prevent external crises and to provide a beneficial framework for developing countries to

access long-term capital and technical assistance for development. Similarly, bridging the technological and knowledge gap between the developed and developing countries through technology transfer was seen as important by some delegations. Others noted that increased investment, in the form of foreign direct investment or official development assistance (ODA), is necessary for the fulfilment of the right to development, as is debt relief. Free capital flows should be accompanied by the free flow of people. Some delegations also indicated a need for a qualitative increase in the participation of developing countries in international economic decision-making and trade policy. Some delegations underlined the need for international organizations to elaborate the human dimensions of their activities.

20. Some delegations noted recent advances in the implementation of the right to development. They welcomed in particular the five year review of the World Summit on Social Development in June 2000 and the establishment of a working group on the right to development chaired by the High Commissioner for Human Rights under the United Nations Development Group (UNDG). Similarly, delegations welcomed the UNDP *Human Development Report 2000*, which focused on human rights and human development. Delegations also encouraged the continuing dialogue between the High Commissioner for Human Rights and organizations such as the World Bank and UNDP, as well as the inclusion of human rights in the UNDAF/CCA and other United Nations development frameworks.

C. Stocktaking and analysis of previous working groups on the right to development

21. The secretariat presented a summary of the two working groups on the right to development mandated by the Commission on Human Rights that preceded the present working group.[1] The presentation of the secretariat was divided into four sections – the content of the right to development, the implementation of the right to development, obstacles to the implementation right to development, and elements of a global strategy for the realization of the right to development.

22. The secretariat followed the presentation with an update on specific activities that related to the work of the previous working groups. In particular, the secretariat noted improvements in fact-finding and indicators, improvements in ratification (over half the world's States having ratified all six major human rights instruments, not including the International Convention on the Protection of the Rights of All Migrants and Members of Their Families) ; the appointment by the Commission of new mandates on the right to development, extreme poverty and structural adjustment; reaffirmation of the right to development at the world conferences of the 1990s and the five-year reviews; the mainstreaming of human rights throughout the activities of the United Nations system as a result of action by the High Commissioner; and the placing of human rights at the centre of country-level development programming through the UNDAF/CCA process.

23. In particular, the UNDAF/CCA process placed emphasis on participation - in the sense of free, active and meaningful participation as defined by the Declaration on the Right to

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[1] The Working Group on the Right to Development (1993-1995) composed of 15 experts established under Commission resolution 1993/22 and the Intergovernmental Group of Experts (1996-1997) established under Commission resolution 1996/15.

Development. The rights-based approach to development adopted under the process stressed not only participation, but also accountability at all levels, non-discrimination and empowerment of individuals and groups and expressly linked development programming with human rights standards. The secretariat also noted that the Committee on Economic, Social and Cultural Rights was actively engaged in an examination of the international financial system as well as international cooperation in relation to the implementation of economic, social and cultural rights. These advances were important steps in achieving rights-based approaches to development. Further, they reflected the spirit of the recommendations of the previous working groups and showed that such recommendations could produce tangible results.

24. Several delegations, while welcoming the UNDAF/CCA process, noted that it was focused on national implementation of the right to development. They questioned what was being done in terms of coordination between United Nations organizations to promote the right on the international level, and whether any activities of OHCHR were directed towards the implementation of a rights-based approach at the international level. Another delegation noted that OHCHR had a central role to play in improving coordination between international organizations on the implementation of the right.

25. One delegation noted the need for a follow-up mechanism to apprise the human rights community of progress or lack of progress being made in relation to implementing the right to development. Several delegations stated that the Working Group should be modest in its objectives and proposals for action.

D. Stocktaking and analysis of actions undertaken by United Nations specialized agencies, international financial institutions and other relevant international organizations

26. The observer for the IMF told the Working Group that the Fund's approach to development was to link debt reduction to poverty reduction by a concerted international effort and by domestic policies that promoted sustainable poverty reduction, especially through economic growth. This approach precluded simple debt cancellation and linked the Heavily Indebted Poor Country (HIPC) initiative with the Poverty Reduction and Growth Facility (PRGF) and poverty reduction strategies, elaborated in a country's Poverty Reduction Strategy Paper (PRSP). A year ago, PRGF replaced the Enhanced Structural Adjustment Facility (ESAF), with the aim of making poverty reduction efforts among low-income members a more explicit element of a renewed growth-oriented economic strategy. In order to access the facility, developing countries had prepared interim PRSPs to guide their policies during the preparatory phase. The process, which, according to the observer, is country-owned and country-driven, had produced greater transparency involving broad participation of both the Government and the Fund.

27. With regard to the enhanced HIPC initiative, about US$ 17 billion in debt relief had been committed to 12 countries, with relief already flowing to 10 countries. It is expected that, by the end of 2000, agreements would be in place for a total of 20 countries with a combined debt relief of more than US$ 30 billion. While commitments and pledges of financial support for the HIPC initiative had been received from donors and creditors, additional

resources still needed to be raised to allow multilateral creditors, including the Fund and the World Bank, to do their share under the HIPC initiative.

28. The observer for UNDP stated that the Programme attached particular importance to the work of the Working Group, as they shared the common objective of overcoming poverty and achieving the goal, reaffirmed by the Millennium Summit, to halve the number of people living under the poverty line by the year 2015. UNDP addressed the complementarities of human rights and human development objectives in its *Human Development Report 2000*.

29. According to the observer for UNDP, six major conclusions highlighted in the report were: (a) to fill in the gap between legislation and reality; (b) to widen the concept of human development by integrating human rights; (c) to consolidate and re-conceive the concept of democracy; (d) to recognize that poverty eradication is not only a development objective but also a challenge for human rights; (e) to readjust the responsibility model to guarantee human rights; and (f) to support national movements for the realization of human rights and human development.

30. UNDP had been closely cooperating with OHCHR and had signed a memorandum of understanding with OHCHR to that end. Regional seminars had been jointly organized in Africa, Asia, Eastern Europe and the countries of the Commonwealth of Independent States (CIS), which provided training and brought together government officials with a view to integrating human rights into human development. UNDP also cooperated with OHCHR under the HURIST programme, a joint project designed to build the human rights capacities of UNDP.

31. The observer for the World Bank noted that the conceptual framework and discussion of the right to development remained far from clear and posed a major challenge for the Working Group. He emphasized that a clear conceptual framework and analytical rigor were needed to translate the right to development into clear policy dialogue and to articulate its value-added, so that it could be mainstreamed into development policy. The Bank agreed with the Independent Expert's recommendation that a major effort must be made to address the issues of poverty and poverty eradication. The observer also believed that the Working Group should identify the most critical strategic policy questions and issues in the realization of the right. Without identifying these questions, it would be difficult to anchor the whole debate and approach to some of the most complex issues facing developing countries, including economics and finance.

32. The World Bank agreed with the general concept of a development compact suggested in the Independent Expert's report which it believed was in line with its Comprehensive Development Framework (CDF) and the Poverty Reduction Strategy Papers (PRSPs). In addition to the three areas of food, education and health, which the Independent Expert identified as priorities, the Bank suggested a focus on access to information and closing the existing information gap. In the view of the Bank, without adequate information, people would never know how to organize themselves in order to demand the respect and materialization of their rights. According to the observer, the World Bank was ready to do its share in democratizing people's access to information and knowledge.

33. The observer said that major works and initiatives had been undertaken within the Bank to understand human rights and the right to development, as indicated by a booklet published last year on the Bank's position on human rights. On the operational front, the Bank had moved radically to establish linkages between the economic development and social agendas. The new institutional and operational instruments such as CDF, HIPC and PRSP were based on the principle of full ownership by the Governments and societies concerned, which he believed was at the core of the realization of the right to development. Finally, he noted that the Bank was actively engaged in funding activities on governance, participation and justice reforms. It had actively participated in various human rights bodies and initiated institutional dialogues with the High Commissioner and her Office.

34. The Chairperson noted that, in light of the 1986 Declaration on the Right to Development, the Bretton Woods institutions should move beyond the conditions under which they had been established and adopt a vocation of serving all mankind. In that sense, the Chairperson noted that he was satisfied to see that the World Bank now had a totally new view on human rights and development and was now proposing methodological approaches which took account of current difficulties in relationships between nations. The Chairperson made the same comment in relation to the IMF. He also noted that the realization of human rights involved struggle. Thus, progress on the realization of the right to development would require struggle to create new mechanisms of international cooperation as well as major structural reforms within each State.

35. The observer for UNESCO said that the organization took a grass-roots approach to development based on cooperation in education, in science and technology, in the preservation of cultures, histories and heritage and in the promotion of the arts. He pointed out the negative impacts that neo-liberalism, structural adjustment policies and debt servicing have had on development. He was encouraged by the dialogue on development offered by the Working Group between the Bretton Woods institutions and the other organizations of the United Nations system.

36. The observer for UNAIDS pointed out the devastating effects that HIV/AIDS has had, and is having, on the enjoyment of the right to development, in particular in sub-Saharan Africa and South-East Asia. The observer highlighted the vulnerability of people living with HIV/AIDS to the abuse of their human rights and emphasized the importance of improving access to drugs to treat the disease.

37. In the general debate on this sub-item, several delegations sought views from international organizations as to what would be the value of the concept of a development compact as suggested by the Independent Expert for their respective programmes of work. Some delegations were concerned that such a development compact might divert resources from existing initiatives and, in that context, slow progress in the implementation of PRSPs, HIPC and PRGF.

38. The observer for UNDP suggested that such a development compact might further enhance the synergy between human rights and human development, which was gaining wider acceptance. The observer for the IMF stated that the idea of a development compact was comparable to its work. The Fund shared the concern of member States about the speed and

delivery of HIPC and other initiatives. For the World Bank, a development compact could be important in ensuring universality and a participatory approach in the realization of the right to development.

39. One delegation raised a question on enhancing participation in the decision-making process of international financial institutions. The observer for IMF responded that, as all international institutions were member-driven, member Governments had the power and the right to propose changes and to monitor the work of the international institutions. He thought that the process was becoming increasingly more inclusive and participatory. For example, the IMF and the World Bank had also actively solicited wider debate and public sounding on the HIPC initiative, which shaped the thinking of the Fund, the Bank and their members.

40. For some delegations, the proposed focus on poverty was seen as the right approach for the Working Group, but there was a need to look deeper into the causes of poverty and issues of national policies and of the international environment. In that context, several delegations also suggested further examination of the effects of globalization. Some thought it important to consider whether current international trade regimes provided an equitable framework for developing countries. Access to information, as suggested by the World Bank, was seen as important by several delegations. One delegation also proposed that more attention be paid to the issues of HIV/AIDS and post-conflict recovery. Another delegation noted the importance of the moral dimension that the right to development brings to the development debate, and suggested that the Working Group should focus on extreme forms of inequality.

41. An NGO observer pointed out that, since women constituted the majority of the population living under poverty, more attention should be given to such areas as empowerment of women, gender-sensitive macroeconomic policy, improvement of indicators on gender, gender-sensitive poverty eradication and employment strategies, education of women and girls, and recognizing the contribution of unpaid work by women towards GNP.

42. One delegation, seeing the usefulness in such open dialogue with international financial institutions, suggested inviting more international bodies to the future meetings of the Working Group. Some delegations suggested organizing a seminar on the right to development, and that the secretariat prepare, in cooperation with specialized agencies, a document on the status of implementation of the right to development at the national and international levels.

E. Role and responsibility of the State

43. Some delegations reaffirmed the provision of the Vienna Declaration and Programme of Action of 1993 and the Declaration on the Right to Development, as well as recent resolutions of the Commission, that States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development. Within this context, and also in light of growing interdependence in an era of globalization, some delegations emphasized that developing and developed countries shared responsibilities in realizing rights and should fulfil their duties in a manner that promoted equitable development based on sovereign equality, mutual interest and cooperation. The

Chairperson stressed the interdependence of all human rights. He noted that there should not be any hierarchy of rights and that civil and political rights promoted economic, social and cultural rights and vice versa.

44. Delegations recalled that the right to development placed the human person at the centre of development, and that States had the duty to formulate appropriate national development policies that aimed at the constant improvement of the well-being of the entire population and of all individuals. In achieving that goal, some delegations noted that the fostering of democracy and good governance was crucial in ensuring popular participation and transparency in the realization of the right. Several States emphasized that the people of the country concerned were the best judges and watchdogs in that regard, and prescriptions or conditions imposed from outside could be counterproductive and run counter to the sovereign equality of States recognized by the Declaration. Others noted that civil society could and should play an important and effective role in that regard.

45. As one of the most fundamental preconditions for the realization of the right to development, some delegations recognized that the State must ensure the peace and security of all its citizens. They noted that ethnic and civil conflicts remained impediments to the realization of the right. Some delegations also said that States also had responsibilities in promoting confidence-building measures and disarmament, monitoring and taking preventive measures to stop illegal trafficking of weapons.

46. Some delegations recognized that States had the responsibility to ensure that adequate resources were allocated and effectively utilized for the realization of the right. They noted that measures to promote effective utilization of resources included the fight against corruption, and increasing participation in and transparency of the decision-making process. Several countries also emphasized the need to ensure equitable participation in the global economy, improved access of developing countries to world markets, reversing the decline in ODA, and faster debt relief as paramount in increasing the availability of resources for the realization of the right. Reform of international financial institutions to increase transparency and participation of developing countries in their decision-making processes were seen as essential by some delegations. One delegation stressed that consideration should be given to the means and mechanisms available to developing countries to obtain the necessary resources for pursuing priority development projects and programmes. According to that delegation, in addition to international financial assistance and technical cooperation (which was necessary and significant but which came from external sources), an effort should be made to identify means and mechanisms to facilitate and strengthen developing countries' exports. That would contribute to their effective participation in global trade and provide them with genuine national resources vital for economic and social development. Other delegations thought that States also needed to cooperate and take effective actions to increase and protect national and international "public goods", such as by fighting against epidemic diseases, particularly malaria, tuberculosis and HIV/AIDS.

F. Role of civil society

47. Some delegations highlighted the essential role of civil society in the implementation of the right to development. Some delegations attempted a classification of civil society. For

example, one delegation included non-governmental organizations, community groups, Church groups, trade unions and the private sector within the term civil society. Another delegation noted that a definition of civil society was still in its infant stages. The representative said that for many, civil society referred to non-governmental organizations that were often seen as being in opposition to Government. Yet civil society should be seen as the very foundation of the State. Another delegation encouraged rigor in defining civil society and warned against simplistic views or definitions that assumed that all actions of civil society were necessarily beneficial to development.

48. One delegation noted four roles of civil society: (a) to support the work of national and international institutions in the implementation of the right to development; (b) to provide a countervailing voice to that of Governments; (c) to provide critical analyses of development; and (d) to provide a voice for minorities. Another delegation noted that the underlying principle with regard to civil society was the inclusion of people in the processes that affected them. Beyond periodic democratic elections, that also meant the inclusion of organized citizenry in defining the goals and strategies for development. Another delegation noted that an active civil society could have a catalytic role in development. Civil society, said one delegation, should be accountable and conduct its activities with transparency. One delegation emphasized that civil society should be seen as a complement to the State, not a substitute.

49. Some delegations said that Governments could support the role of civil society by providing resources and through ensuring the freedoms guaranteed under human rights law that were necessary for the performance of their functions, including the freedom of expression and opinion and democracy. Several delegations emphasized the importance of civil society participation in the Working Group and encouraged wider participation at the second session.

50. Concluding the item, the Chairperson stressed that the relationship between civil society and the State should be one of cooperation and not confrontation.

G. Concerted actions related to the international environment

51. Some delegations stated that the implementation of the right to development placed a shared responsibility on the international community, as set forth by the concept of co-development, to create an international environment that was conducive to development. Some delegations underlined the fact that the international environment should be respectful of all human rights and human dignity, while some added that the globalization process should be redefined in order to ensure the full enjoyment of human rights within development activities. Some delegations said that the international economic order should work towards offering a level playing field to developed and to developing countries, in particular regarding their access to world trade.

52. Some delegations said that international cooperation should encourage and enable concrete measures at several levels. Some delegations indicated their concern for the need to ensure the participation of all countries, especially developing countries, in the decision-making process concerning international economic, monetary and financial policies. Other delegations said that measures had to be taken to integrate developing countries more

successfully into the multilateral trading system. Some delegations insisted on the need to ensure access for developing countries to technology and knowledge and to address the tension between the protection of intellectual property rights and the sharing of knowledge.

53. Some delegations said that there was a need for better inter-institutional coordination, as well as for the setting up of a follow-up mechanism. One country called for the creation of a monitoring system at various levels – international, governmental and non-governmental. In response, the Chair recalled the role of OHCHR under paragraph 11 of Commission on Human Rights' resolution 1998/72 which asked the High Commissioner to submit regular reports relating to the implementation of the right to development.

54. Several delegations, as well as international and non-governmental organizations, raised particular issues of international cooperation, trade subsidies and migration. Some delegations believed that the improvement of the international environment was largely dependent on taking concrete and coherent measures in various areas such as technology transfer, fighting xenophobia and racism, free circulation of commodities and labour, and enhanced ODA. Some delegations raised the issue of the negative effects of agricultural subsidies and the effects these had on the enjoyment of the right to development. Some NGOs said that the globalization process and the policies followed by international financial institutions dictated the conduct of States in carrying out their economic responsibilities, and that they could not ensure the equitable distribution of resources to their citizens.

55. One delegation emphasized the role of increased coordination among international organizations as one means of ensuring an international environment conducive to the implementation of the right to development.

H. Measures to improve international cooperation

56. Some delegations noted that international cooperation was an important element in the process of realizing the right to development and some emphasized that the international community had a duty to cooperate internationally in order that all countries and individuals could be empowered to realize their rights.

57. In this regard, the scope for international cooperation encompassed not only development cooperation but also efforts to ensure that the international economic environment is conducive to development. In order for developing countries to participate effectively in the global market on an equitable basis, some delegations argued that the international community should take steps to create a level playing field and to democratize decision-making in international economic management. One delegation stressed the need for the creation of a mechanism that favoured developing country participation in international markets as a means of creating funds for national economic and social development. Some delegations also recognized that promotion of democracy, good governance and transparency were fundamental in effective utilization of resources in development cooperation. Some stated that the same principles should also apply at the international level in creating a conducive economic environment to promote poverty eradication, equity and social inclusion.

58. Delegations suggested that the implementation of rights should take fully into consideration specific situations of the countries concerned, based on common understanding and international solidarity. Several delegations shared their development cooperation experiences in that respect. One delegation suggested that the Working Group should establish a monitoring mechanism to measure the progress of the implementation of commitments in respect of international cooperation, using applicable indicators. Another delegation recommended that the Working Group should also take into account relevant work being undertaken by treaty bodies and mechanisms. The Chairperson noted the constructive atmosphere that had prevailed in the discussion on this issue, and expressed his hope that the Working Group would continue to make progress towards greater international solidarity in the realization of the right to development at all levels.

I. The role of women in development

59. Delegations, international organizations and non-governmental organizations spoke on the promotion and protection of women's right to development. One delegation noted that women were key actors in realizing the right to development. For example, in Africa women were the main food producers, a fact that illustrated the importance of their role in development.

60. Various delegations identified priority areas for attention as: poverty alleviation; protection of the environment; satisfaction of basic needs such as health and education; access to goods and services such as loans and property; improved access to contraception; improved working conditions of women; and good governance. One delegation stressed the need to alleviate poverty through the promotion of gender equality and by ensuring the empowerment of women. Another delegation noted that poverty alleviation programmes should themselves integrate the role of women. A delegation addressed the need to empower women in development through affirmative action schemes.

61. Some NGOs encouraged the Working Group to play a role in promoting women's right to development by emphasizing gender equality and promoting specific support for women such as access to micro-credit and protection of women's property rights. The Chairperson agreed that there was a need for action in these areas. He highlighted other areas for action such as the elimination of violence against women. He noted that the discussion on the role of women should be continued at the second session of the working group.

J. Examination of the report of the Independent Expert

62. The Independent Expert on the right to development, Prof. Arjun K. Sengupta, presented two reports entitled "Study on the current state of progress in the implementation of the right to development" (E/CN.4/1999/WG.18/2) and an updated study (E/CN.4/2000/WG.18/CRP.1) pursuant to General Assembly resolution 54/175 and Commission of Human Rights resolution 2000/5.

63. The Independent Expert noted that his work was guided by a simple objective: to consider the right to development in a manner that was realizable and able to be implemented immediately. In his view, the right to development was a right to a particular process of

development, which facilitated and enabled all fundamental freedoms and rights to be realized, and expanded basic capacities and the ability of individuals to enjoy their rights. The overriding theme of his report would be on equity and justice, which he saw to be at the heart of human rights. In his second report, he placed particular focus on the eradication of poverty – one of the worst forms of human rights violation – as an entry point for his analysis.

64. With regard to a concrete programme for the realization of the right to development, the Independent Expert in his last report suggested a step-by-step approach, in which three basic rights would be addressed: the right to food, the right to primary education and the right to health. This would be pursued as part of a decentralized development plan, where no human rights would violated, but at least some would be progressively realized.

65. According to the Independent Expert, the realization of the right to development must be based on a programme of coordinated action. He recommended that such development plans be implemented in the framework of a "development compact", linking in a common agreement the developing countries concerned and the representatives of the international community, donor countries or international financial institutions. The Independent Expert suggested that such a development compact would highlight the importance of international cooperation in implementing the right to development. There would be a reciprocal obligation on the part of the international community to provide resources and share costs with developing countries, while developing countries fulfil their national obligations towards realization of the right. While these development compacts would be country specific, the Independent Expert explained that they should be complemented by international action in the fields of trade and access to markets, debt adjustment for the poorest countries, transfer of resources and technology, application of migration and labour standards, restructuring of the international financial system promoting a greater share of power and in decision-making, and increased flow of private capital to the developing countries.

66. Some delegates welcomed the efforts of the Independent Expert. Some NGOs commended the Independent Expert's emphasis on empowerment and decentralization of development policy-making and implementation. Others approved what they saw as a balance in his reports between national implementation and international cooperation. One NGO criticized the report for lacking structural analysis of the causes of underdevelopment and for having insufficient reference to the international dimension of the right to development. Some delegations agreed with the Independent Expert's definition of the right to development as a right to a process of development through which all human rights as such were realized. One delegation noted that a process was not a human right and emphasized the fact that the right to development was a human right. However, another delegate said that under the terms of the Declaration on the Right to Development, development was perceived as a particular process, and the human right to development was a right to that particular process of development.

67. Some delegations registered their approval of the Independent Expert's approach of focusing on three core rights as a means of initially examining the implementation of the right to development. In this context, some delegations approved the concept of a "vector of rights",

where an improvement in three "core rights" would be seen as respecting the right to development so long as there was no regression in the enjoyment of any other rights. However, one delegate identified the need for a higher standard for the promotion of human rights, noting that improvements in the enjoyment of one right should actually be expected to lead to improvements in other rights. Another delegate underlined the fact that the focus on three rights should not lead to the other rights being ignored. Some delegations questioned the appropriateness of focusing on only three rights, in view of the many other rights in the Universal Declaration on Human Rights. Another delegation noted that the rights-based approach to development should not be confused with the right to development. The right to development was a specific right, not an approach, he maintained.

68. Delegations also generally approved of the Independent Expert's approach of examining the implementation of the right within the framework of poverty alleviation. However, some delegations pointed out that the right to development went beyond poverty eradication and sought human development in a wider sense. The right to development should not be reduced to an anti-poverty programme, said one. Other delegates saw the alleviation of poverty as a condition for the enjoyment of the right to development. The World Bank suggested that the Independent Expert could examine the inability of the poor to accumulate capital.

69. Some delegations spoke about the appropriateness of a development compact. One delegate noted that such a concept had been suggested before within the framework of the Organization for Economic Cooperation for Development), however the idea had not taken off. The delegate asked what had changed to make the idea more likely to succeed now. The Independent Expert responded that any previous attempt to introduce a development compact had not taken a human rights approach. A rights-based approach would radically change any previous form of compact, according to the Independent Expert. The Independent Expert also noted that the relationship between developed and developing countries had changed and was no longer so confrontational. One delegation suggested that instead of a development compact, the right to development could be implemented in existing development projects. Some delegations noted that an international mechanism – beyond the development compact – that reviewed the international environment for the implementation of the right to development would be appropriate. Several delegations criticized the concept of a development compact, noting that they were not looking for increased resources for development as such, but rather more effective partnerships for development. The development compact should therefore not be seen in donor/recipient terms. Some delegations proposed a development compact that would address issues of market access.

70. Some delegations queried whether any proposed development compact would lead to conditionality for development assistance. One delegate identified a reference in the Independent Expert's report to self-assessment and monitoring as part of the development compact. This, he believed, would demystify and diffuse some of the concern over conditionality. Several delegations noted that more time was needed to examine the Independent Expert's reports and requested that the reports be reviewed at the second session of the working group.

71. Concluding the item, the Chairperson welcomed the positive atmosphere of the Working Group. He thanked the international organizations and Bretton Wood's institutions for their positive contributions and constructive participation. He also regretted that, despite invitations having been addressed to them, some international organizations did not participate. The Chairperson referred to the discussions on national and international dimensions of the right to development. *He noted his belief that participants differed more in degree than in substance and on the emphasis that needed to be balanced on either the national or international dimensions.* The Chairperson took note of the reports of the Independent Expert on the right to development. He praised the depth of the content of the reports and their methodological rigor and the suggestion that additional resources should be provided for the mandate of the Independent Expert.

72. Finally, the Chair identified the following subjects that he considered to have been highlighted at the first session:

a) The examination of the current international economic order and the need for equity in economic and financial relations, particularly matters relating to market access for developing countries as well as foreign debt servicing;
b) The need to establish a balance between countries with regard to their access to technology and scientific knowledge;
c) The promotion of the conditions needed for good governance and to fight against corruption;
d) The examination of means to fight poverty and to promote access to education and health;
e) The examination of internal and international problems related to migration, racism and the standard of living;
f) The need to establish criteria and indicators in the framework of the follow-up mechanism on the right to development;
g) The development of a possible international compact for development, as proposed by the Independent Expert;

73. The Chairperson stated that the second session of the Working Group should study specific measures proposed by delegations, international organizations and the Independent Expert as well as by civil society. He encouraged delegations to submit proposals for action, in writing, to the secretariat before 15 December 2000.

II. SECOND SESSION OF THE OPEN-ENDED WORKING GROUP

A. Organization of the session

1. Opening of the session

74. The Working Group held its second session from 29 January to 2 February 2001 with additional meetings convened on 26 and 27 February and 2 March 2001. It was opened by the Chairperson, His Excellency Ambassador Dembri, in the presence of the United Nations Deputy High Commissioner for Human Rights, Mr. B. Ramcharan.

2. Attendance

75. Representatives of the following States members of the Commission on Human Rights attended the meetings of the Working Group, which were open to all members of the Commission: Algeria, Argentina, Belgium, Brazil, Canada, China, Colombia, Cuba, Cyprus, Czech Republic, Ecuador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mexico, Pakistan, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Spain, Syrian Arab Republic, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela and Viet Nam.

76. Representatives of the following States attended as observers: Albania, Australia, Austria, Belarus, Bolivia, Bosnia and Herzegovina, Bulgaria, Croatia, Democratic People's Republic of Korea, Denmark, Egypt, El Salvador, Estonia, Ethiopia, Finland, Iran (Islamic Republic of), Iraq, Ireland, Israel, Kenya, Kuwait, Lebanon, Lithuania, Mauritania, Morocco, Myanmar, Nepal, New Zealand, Nicaragua, Panama, Netherlands, Philippines, Slovakia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Tunisia, Turkey, Yemen and Yugoslavia.

77. The Holy See and Switzerland were also represented as observers.

78. The following United Nations bodies, programmes and specialized agencies were represented by observers: Food and Agriculture Organization of the United Nations (FAO), International Labour Organization (ILO), International Monetary Fund (IMF), United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Environment Programme (UNEP), United Nations Non-Governmental Liaison Service (NGLS), United Nations Population Fund (UNFPA), World Bank, World Health Organization (WHO), World Intellectual Property Organization (WIPO) and World Trade Organization (WTO).

79. The following intergovernmental organizations were represented as observers: European Commission, International Organization For Migration (IOM), League of Arab States, Organization of African Unity (OAU) and Organization of the Islamic Conference (OIC).

80. The following non-governmental organizations were represented as observers: *3D Associates*, African Commission of Health and Human Rights Promoters, *African Indigenous and Minority Peoples Organization*, American Association of Jurists, Association of World Citizens, *Commission Amazigh Internationale pour le developpement et les droits de l'homme*, *Committee of Action for Child and Woman Rights*, Europe-Third World Centre, Franciscans International, Interfaith International, International Council of Women, International Council of Environmental Law, International Federation of Business and Professional Women, International Federation of University Women, International Organization for the Development of Freedom of Education, Lutheran World Federation, Pax Romana, Rights and Humanity, World Federation of Methodist and Uniting Church Women, Women's International League for Peace and Freedom and Zonta International.

3. Documentation

81. The second session of the Working Group had before it the texts and documents included in the list attached to this report as annex II.

4. Organization of work

82. At its first meeting, on 29 January 2001, the Working Group adopted its agenda, as contained in document E/CN.4/2001/WG.18/1. The Working Group also discussed and adopted its programme of work contained in document E/CN.4/2001/WG.18/CRP.10, with the following proviso: "(w)ith a view to conducting a focused and fruitful debate, items 4 (national action for the realization of the right to development) and 5 (international action for the realization of the right to development) constitute an organized manner of addressing the issues raised at the first session of the Working Group. The list of issues contained in items 4 and 5 is not complete, is non-reflective of priorities and will be dealt with as much as possible according to the time available. The full list of issues as contained in document E/CN.4/2000/WG.18/CRP.5/Rev.1 will be the true and authentic list of issues presented to the Working Group at its first session."

B. Introductory remarks

83. In his opening statement, the Chairperson highlighted a set of economic and social issues affecting the realization of the right to development in the context of globalization. In particular, he referred to three areas addressed at the first session of the Working Group which called for international action and solidarity: (a) how to ensure that developing countries benefited from global trade and that their benefits therefrom would be distributed equitably and with benefit to the poor; (b) how innovation and technological progress could be made accessible to everyone; and (c) how to ensure that developing countries would have access to necessary medicines, particularly in their fight against HIV/AIDS and other pandemic diseases.

84. The Working Group, he said, would need to address these in order to find ways for concrete and effective implementation of the right to development. Recalling the open discussion and fruitful exchange of views evident at the first session of the Working Group, the Chairperson hoped that the same spirit would prevail at the second session.

85. The Chairperson noted that the reports of the Independent Expert could serve to facilitate an exchange of ideas for the realization and operationalization of the right to development for developed and developing countries. Formulation and consideration of proposals for the realization of the right to development might be a complex task, but it was also an urgent one. In doing so, a more pragmatic approach seemed justified at this initial stage. The suggestion of the Independent Expert, to focus on other selected rights such as health, food and education, would thus appear appropriate. Such a pragmatic approach should also build on the consensus adopted nationally and internationally at the global summits and conferences of the 1990s, including the World Summit for Social Development and the five-year review thereof.

86. The Chairperson noted that many countries in extreme poverty had been unable to realize these rights, while other parts of the world enjoyed unprecedented economic growth. This paradoxical situation called for more international solidarity and a rethinking of conventional modes of development assistance. Recent global conferences called for exploring new initiatives such as the 20/20 concept and the conversion of debt to ensure social development and the fight against poverty, as well as the proposed "development compact" concept put forward by the Independent Expert, which would include a 50/50 sharing of costs for social programmes between developing countries and donors.

87. The Deputy High Commissioner conveyed good wishes from the High Commissioner for a productive session of the Working Group. He urged the international community to take seriously the discussion on the right to development and move forward in more concrete terms. There had been much circular debate in human rights forums, but the need now was to find ways of advancing the concrete implementation of right to development. Quoting examples from various parts of the world on linkages between human rights and development, he underscored the necessity of adopting a pragmatic approach to the realization and implementation of the right to development. In doing so, the Deputy High Commissioner believed, it was important to keep in view three dimensions of human rights: (a) norms and principles; (b) justice; and (c) practical action to advance human dignity.

C. Presentation and discussion of the report of the Independent Expert

88. The Independent Expert on the right to development presented his third report to the Working Group (E/CN.4/2001/WG.18/2). The Independent Expert reiterated that the Declaration on the Right to Development, together with the 1993 Vienna Declaration and Programme of Action, had determined the content of the right to development and established it as a universal human right with both national and international dimensions. Therefore, national action must be complemented by international action. In doing so, international action should be multilateral as well as bilateral and should include technology transfer, access to finance for research and development, and access to markets. In addition, the obligations of States and of civil society at the national and international levels needed to be formalized. The Independent Expert also highlighted the importance of economic growth to the realization of the right to development.

89. The Independent Expert also referred to his proposal to establish a development compact focused on the implementation of three or four rights in the context of poverty eradication, as discussed at the first session of the Working Group. The Independent Expert also encouraged international organizations that had not yet done so to include a human rights-based approach to their work. In doing so, they could avoid inequalities and disparities in the development framework.

90. The Independent Expert proposed the possibility of establishing a body to monitor the implementation of the right to development. The Independent Expert urged the participants to put forward suggestions as to what kind of monitoring body should be established. He added that such a body did not necessarily have to be in the form of a treaty monitoring body. The disadvantage of the international treaty bodies consisted in their examination of a specific category of rights, which he believed was not compatible with the comprehensive

nature of the right to development. The Independent Expert suggested that existing human rights bodies, such as national human rights commissions, could act as monitoring bodies. The Independent Expert also proposed a possible monitoring body at the international level, consisting of representatives of the Commission on Human Rights, international financial institutions and international agencies.

91. Some delegations and NGOs commented on the third report of the Independent Expert and asked for clarifications. One delegation asked for more discussion on the content of the right to development. Some delegations underlined the need to examine the human rights impact of the existing activities of international organizations in the interests of not duplicating work in the field of development. The Working Group could have a role to play in preventing such duplication. Some delegations suggested that a more appropriate approach might be to mainstream human rights, including the right to development, into existing development initiatives. Some delegations proposed that the Independent Expert, interested Governments and the concerned organizations could meet together to discuss how to improve the implementation of the right to development. Such a group could also discuss the feasibility of the development compact as well as the appropriateness and form of the suggested monitoring body.

92. Some delegations emphasized that poverty eradication had to be the point of departure for the realization of the right to development. Within that context some agreed with the Independent Expert's suggestion of a development compact. Some delegations, however, indicated that they needed more information on the compact. Other delegations agreed with the Independent Expert's choice of examining three rights. Some, however, suggested that those rights could change according to the particular situation of a country. Within that context, one delegation wondered why the Independent Expert had not examined the right to employment, since the right to employment was a right that enabled the realization of other rights. On the question of employment, the Independent Expert replied that the right to employment could be taken into account in his future work.

93. Some delegations stated that before passing judgement on the utility of the development compact idea, case studies were needed. One delegation suggested that in addition to poverty eradication the question of vulnerability should also be emphasized. Another delegation asked for more information as to how the compact would be coordinated with existing mechanisms and how it would contribute to the mainstreaming of human rights. Some delegations underlined the need to have a country-by-country compact as opposed to a general compact proposal. One delegation wanted to have clarification on the financial aspect of the compact. One delegation indicated that the compact should be undertaken on a voluntary basis. Some delegations expressed their wish to have further information on the impact of the compact on trade regimes. The Independent Expert reminded the Working Group that, while it was possible to develop the compact on a country-by-country basis, the underlining obligation to respect human rights remained universal.

94. Some delegations welcomed the general idea of a monitoring body to examine violations of the right to development, but insisted on having further information on the nature of this body. Some delegations underlined that such a body should be under national jurisdiction. One delegation stressed that, while a monitoring body should be domestic in nature, it should

not be isolated from international forums. Another delegation requested further information on the role of the donors in such a monitoring body. In the view of some delegations, any monitoring body should be built on the basis of transparency and the obligation to report on both the national and international dimensions of the implementation of the right to development.

95. On the Independent Expert's proposal to use national human rights institutions as monitoring bodies for the right to development, some delegations doubted the appropriateness of those institutions for such a role. Some underlined that national human rights commission did not necessarily have a mandate, or the resources and expertise, to deal with violations of the right to development. Further, questions of violations of obligations should be examined by the courts and not by national commissions, in the first instance.

96. Some delegations agreed with the Independent Expert that the obligations of relevant actors at both the national and international levels had to be defined. One delegation stated that in defining those obligations the sovereignty of the State had to be respected. Some delegations argued that the question of appropriate action at the national and international levels enabling the implementation of the right to development had to be examined. One delegation emphasized that the term "obligation" should not be confused with conditionality. Some delegations argued that there was a need for a new international economic order for the effective promotion of the right to development.

97. Some delegations questioned the Independent Expert's description of the right to development as a process, with some emphasizing that the right to development was a human right and not only a process. Other delegations emphasized that the right to development was a right to a particular process and mentioned that this did not weaken the right. Some delegations argued that the Declaration on the Right to Development and the various resolutions of the Commission on Human Rights clearly defined the right to development and that there was thus no need to seek to redefine it. The Independent Expert stated that he was not attempting to redefine the right to development. In his view, development was a process that took place over time. Depending on the context, the nature of the process could change. In order to guarantee sustainable growth, development had to be considered as a process, and the right to development as the right to a particular type of process.

98. Delegations posed questions on various other aspects of the Independent Expert's reports. Some delegations asked the Independent Expert to explain the 20/20 and 50/50 concepts in greater detail. The Independent Expert replied that the 50/50 concept built upon and expanded the 20/20 concept.

99. Delegations also posed questions to the Independent Expert concerning indicators. One delegation urged the Independent Expert to examine the work being undertaken on indicators by the UNDG. Another delegation indicated a willingness to offer financial assistance for the elaboration of indicators.

100. The representative of the Non-Governmental Liaison Service raised the issue of the international trading system, suggesting that certain existing trade agreements might be preventing developing countries from fulfilling their duties under the Declaration on the

Right to Development, and asked for further information on how to solve potentially conflicting situations. The Independent Expert replied that obligations – such as those under trade agreements – that hindered the realization of the right to development had to be reconsidered.

101. Some delegations questioned the Independent Expert's emphasis on economic growth. The Independent Expert replied that he was not introducing any new right to economic growth – but he underlined that growth remained an important factor in the realization of the right to development. He warned that some forms of growth were not favourable to the realization of the right to development. In that regard, growth should not cause inequalities and disparities, either within a country or among countries.

102. Finally, the Independent Expert urged the participants to move forward in their discussions on the right to development. He suggested that the Commission on Human Rights could, for example, propose the establishment of an appropriate international mechanism within the coming five years. He encouraged discussion of this proposal among all interested countries and organizations in order to achieve a common agreement. The Chairperson emphasized the need to develop any plans for action related to development through cooperation between the donor and receiving countries. Such an approach would be the best way to find solutions to difficult and complex questions. The establishment of an appropriate monitoring mechanism could help to ensure that, in planning development activities, particular rights would not be approached in isolation from others, thus ensuring a holistic approach. The Chairperson concluded by urging participants at the Working Group to contribute to a fruitful discussion, taking into account the importance of the right to development to the upcoming Third United Nations Conference on the Least Developed Countries (Brussels, May 2001), as well as to the G-8 Summit Genoa, Italy, July 2001) and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, South Africa, August/September 2001).

D. Presentation by United Nations agencies and international organizations

103. A representative of OHCHR reported on the activities and strategies of the Office for the realization of the right to development. Following the launching of the Secretary-General's reform programme in 1997, OHCHR had been active in mainstreaming human rights into development planning, policy and projects of the United Nations system, particularly through participating in the development and monitoring of UNDAF/CCA. The basis for OHCHR's input had been the rights-based approach to development, building on the right to development, and emphasized the five mutually reinforcing elements of: (a) free, active and meaningful participation (the language of the Declaration); (b) accountability by all partners; (c) non-discrimination and attention to vulnerability; (d) empowerment of beneficiaries, the poor, women and the excluded; and (e) express linkages to international human rights standards, including the right to development.

104. This was a conceptual framework for the process of human development that was normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Essentially, for OHCHR, a rights-based approach

integrated the norms, standards and principles of the international human rights system into the plans, polices and processes of development. The norms and standards were those contained in the wealth of international treaties and declarations, with the right to development at its core.

105. OHCHR had encouraged the adoption of rights-based approaches in the follow-up of global conferences, and had contributed to substantive discussion on the right to development in various forums. The Office had also deepened its dialogue with other international organizations, including the World Bank, WTO and WIPO.

106. In particular, OHCHR was intensifying efforts to encourage the adoption of human rights-based approaches in the follow-up to the World Summit for Social Development and Beyond. The High Commissioner's report linked the new initiatives for social development with relevant articles of the Declaration on the Right to Development and identified corresponding activities of the international human rights machinery relevant to the implementation of those new initiatives. OHCHR had continued to provide technical cooperation to States seeking to strengthen their capacity to promote and protect human rights, including the right to development. OHCHR had also actively contributed to various seminars on the right to development. The representative of OHCHR also stated that there was an important connection between the right to development and the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The report of the High Commissioner to the fifty-seventh session of the Commission Human Rights would provide more detailed information on these and other activities of her Office.

107. The Special Rapporteur on the right to food, Professor Jean Ziegler, addressed the Working Group on linkages between the right to food and the right to development. He informed the Working Group of the current state of world food security, in which hundreds of millions of people, including millions of children, were undernourished, while the world economy as a whole produced enough food to feed everyone. The Special Rapporteur believed that concrete steps needed to be taken for the realization of the right to food, in terms of legislation, agrarian reform, anti-corruption measures and opening-up of agricultural markets in developed countries. He expressed concern about what he saw as conflicting policies within the United Nations system and between United Nations development agencies and those of the international and financial and trade institutions, which were affecting the realization of the right to food.

108. The observer for IOM spoke on linkages between migration and development. IOM saw migration as a vehicle for development of individual migrants, their countries of origin and receiving countries. However, obstacles to development such as poverty, lack of work or lack of education could lead to illegal forms of migration and to further misery. For the more skilled, legal migration was easier but the consequent "brain drain" was affecting the development of many countries of origin. IOM was committed to providing solutions to Governments and individuals so that they might advantage of the development potential of migration, but also in order to address irregular migration which often led to the violation of basic human rights. The observer noted the increased attention to the rights of migrants within the United Nations human rights mechanisms, and stressed that the discussion on the

right to development should address both respect for the rights of migrants and the obligations of States in that regard.

109. The observer for UNDP stated that it attached importance to the work of the Working Group and appreciated the reports of the Independent Expert, many aspects of which would be useful in operationalizing the right to development. While UNDP supported the idea of "compact" and partnership approaches such as the 20/20 concept, the proposed "development compact" should be carefully examined in light of existing mechanisms such as UNDAF/CCA, the United Nations resident coordinator system and the World Bank's Comprehensive Development Framework (CDF) and World Bank/IMF Poverty Reduction Strategy Papers (PRSPs). The observer identified three issues for further consideration of the Working Group, namely: (a) rights-based assessments as principles of good programming; (b) definition of a minimum core content of economic, social and cultural rights; and (c) the need for proper indicators. UNDP viewed the strengthening of the process envisaged in the right to development at the national level as of utmost importance, and in that context called upon the international community and the Working Group to support the integration of a human rights-based approach, as a tool for the implementation of the right to development, into the guidelines for development of PRSPs.

110. The observer for the World Bank underscored his organization's efforts to contribute and to bring added value to the work of the Working Group. In his view, for the Bank to start a serious policy dialogue at the country level on the right to development, including its implications for economic policymaking and programme design and implementation, would essentially require two elements. First, it would require a formal request from the country to bring the right to development into the question of the approach to and allocation of development assistance. Second, it would require more clarity on the possible impact this new element might have. The need for mainstreaming the right to development into economic and social development was by now widely accepted. The challenge now would be to link the right to development to the process of wealth creation, capital accumulation and poverty reduction. For this to happen, the representative saw a need for more clarity on the conceptual front, such as how the notion of the proposed "compacts" could be realized in practice. The observer for the World Bank also shared what he saw as key strategic questions, namely, the nature and scope of the value system which the right to development brougt forth, the implementation of the right to development as the right to a process of development, linkages to the framework of economic, social and cultural rights, and responsibility for the implementation of these rights.

111. The observer for UNCTAD said that UNCTAD followed the activities of the Working Group with much interest, particularly in view of its mandate to examine the effects of structural adjustment policies on development, and of the forthcoming Third United Nations Conference on Least Developed Countries (LDCs). UNCTAD welcomed the fact that institutions like the World Bank had taken steps to implement programmes to reduce the debt of LDCs and link concessional loans with poverty reduction strategies. However, in the view of UNCTAD, much remained to be done for the realization of the right to development in those countries. There was a need for greater convergence of policies between the United Nations and the Bretton Woods institutions, which would lead to joint actions for capacity-building and enabling countries to elaborate their own national development policies. This

was all the more important as LDCs were still not in a position to allocate significant resources for social development. Such countries were dependent on a few commodities subject to highly volatile markets, and agricultural markets in developed countries still remained closed to exports of LDCs. The added value of, and the challenge for realizing the proposed development "compact" might be that it would put in place a follow-up and monitoring mechanism which could ensure that development strategies focused not only on economic efficiency but also on social investment.

112. The observer for the WTO stated that the preamble to the Marrakesh Agreement establishing WTO, the Charter of the United Nations and the Universal Declaration of Human Rights shared common objectives for development. WTO aimed for higher standards of living, full employment and conditions of economic and social progress, through expansion of trade in goods and services. WTO members also recognized the need for positive efforts designed to ensure that developing countries, especially LDCs, secured a share of the growth in international trade. WTO strove to achieve those goals by entering into reciprocal and mutually advantageous arrangements directed to substantial reduction of tariffs and other barriers to trade and to elimination of discriminatory treatment in international trade relations. In so doing, WTO believed that further trade liberalization was an essential element of a comprehensive strategy for accelerated growth and poverty reduction, and that improved market access opportunities should be accompanied by more focused support for developing countries (particularly LDCs) to build their capacities. The observer noted that many elements and ideas outlined by the Independent Expert, such as establishment of rights and obligations, need for monitoring, concrete actions to be taken at the national level, transparency, accountability, equity and non-discrimination, were also key ideas embodied in WTO practice.

113. The observer for UNESCO stated that non-implementation of the right to development was a matter of deep concern, as it was of utmost importance for the implementation of all human rights. In its programmes in education, the natural sciences, social and human sciences, culture and communication, UNESCO intended to pay more attention to the promotion of the right to development and eradication of poverty and to implement interdisciplinary, integrated activities. In particular, UNESCO hadd made poverty alleviation a long-term priority. The organization now focused on the human rights dimensions of development, empowering the poor, and assisting member States in designing pro-poor policies. In these activities, the role of education in general and in human rights in particular should not be underestimated.

114. The observer for WIPO briefed the Working Group on the mandate and activities of his organization, which were essentially to promote and protect intellectual property throughout the world. The main objectives of protection of intellectual property rights were to promote human creativity, and to strike a careful balance between the rights of innovators and creators and the public at large. Towards that end, WIPO assisted its members in establishing new norms and provided legal and other advice through an extensive technical cooperation programme. According to the WIPO observer, attention to intellectual property rights had increased recently with the globalization of markets and rapid technological advances, resulting in a growing appreciation of the value of intellectual commodities as central assets in a knowledge-based economy. In response to those challenges, WIPO had initiated several

new programmes, including those focusing on traditional knowledge, biodiversity, generic research and biotechnology, LDCs, e-commerce, support for innovations, small and medium-sized enterprises and human rights. In recent years, WIPO and OHCHR had begun interactions with a view to furthering understanding of the linkages between human rights and intellectual property. In November 1998, the two offices organized a panel discussion on intellectual property and human rights. The Committee on Economic, Social and Cultural Rights organized a day of general discussion on the "right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author" during its twenty-fourth session in November 2000.

115. The observer for the IMF stated that, together with the World Bank, the IMF had been reshaping its strategy by assessing critically the effectiveness of its policies and linking IMF assistance and debt relief to poverty reduction. In that process, participation had been the key underlying principle. The new PRSP launched in 1999 emphasized a "country-owned" rather than "Government-owned" process, and was built on wider consultation by Governments with civil society, particularly the representatives of the poor, and development partners. The PRSPs were linked to both concessional loans under the Poverty Reduction and Growth Facility (PRGF) and debt relief under the Heavily Indebted Poor Countries (HIPC) initiatives. The representative explained that this three-pronged strategy was beginning to show encouraging results. He added that it would be a dynamic process, adapting to changing circumstances as necessary. Some obstacles encountered included lack of up-to-date information, limited institutional and analytical capacity, and limited capacity of civil society to participate meaningfully in strategy preparation. To address those concerns, IMF, in cooperation with the World Bank, was enhancing its technical assistance to member countries.

116. The observer for the FAO stated that in most developing countries, agriculture was the main source of livelihood for the majority of the population and remained the foundation for eradicating poverty, and improving food security and overall economic, social and cultural development. It was the key in the realization of the right to development for a large part of the world's population. The right to food was at the heart of FAO's mandate, and FAO's operational concept of the right to food was food security. Realizing the right to food involved a series of national and international actions, complementing the efforts of individuals. FAO would like to add to the Independent Expert's analysis that in view of the critical role of agriculture in the overall economic development in most vulnerable countries, focus should be placed and resources allocated to agricultural development. On operationalizing the right to development, FAO recognized that much progress had been made towards reducing food insecurity and improving standards of living, however, much remained to be done. FAO believed that priority should be given to the removal of constraints on access to food, primary health and primary education as a basic first step towards alleviating "capability-poverty" so that "income-poverty" eradication programmes could be made sustainable. FAO also shared the view that progress in this area could only be made by strong national commitments with the support of the international community. Such mutual commitments also required regular follow-up to ensure that adequate progress was being made.

117. The observer for UNFPA stated that one of the keys for sustainable development was to recognize the need to eliminate discrimination, in decision-making and in families. Towards that end, the emancipation of women constituted an essential element of development. According to the observer, discrimination diverted resources from women and prevented their participation in society. These were not only economic questions. In UNFPA's view, better health, education and the emancipation of women were fundamental objectives of development and should be incorporated and duly recognized.

118. The observer for the ILO stated that the ILO, with its standard-setting functions and rights-based activities, took great interest in linkages with human rights. ILO had focused on social justice and decent work in employment generation and job creation as engines of development. The observer explained that the role of ILO was to supervise and monitor the implementation of the international labour standards and to provide assistance in bringing country practices into conformity. In addition to basic labour standards, ILO promoted the Declaration on Fundamental Principles and Rights at Work and was also active in the area of the elimination of child labour. Another area that might be of interest was the Working Party on the Social Dimensions of Globalization. According to ILO, respect for fundamental freedoms and principles of social dialogue at the national level should be at the heart of development policies.

119. Following presentations by the United Nations agencies and international organizations, participants in the Working Group raised points of clarification and exchanged views with agencies and international organizations.

120. Some delegations noted the linkages between migration and development, and suggested that the Independent Expert might examine the implications and impacts of migration on the right to development, in consultation with IOM and others. IOM responded by reiterating the importance of factoring in migration when formulating development policies. IOM also emphasized the importance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and urged States to ratify it.

121. On the development compact proposal, some delegations felt that existing mechanisms such as UNDAF, CDF and PRSP should be used as a vehicle to operationalize the right to development. It was also noted that United Nations agencies and the United Nations Development Group had been working on the development of relevant indicators, which should be taken into account. UNDP suggested that the Independent Expert might wish to review the many national human development reports, as they were prepared by national experts and reflected voices of the people and might be useful in further analysis.

122. Delegations sought clarifications from and views of the World Bank regarding issues related to governance and participation. In response, the World Bank observer emphasized the importance of country ownership over unilateral imposition of development models or policy prescriptions. In the view of the observer, if the countries concerned did not advocate a particular policy or idea, there was no room for the World Bank or others to advocate for it. Participation was therefore fundamental to the right to development. The observer said that the World Bank was committed to improving participation at the project level, country level,

and at the levels of Governors and the Board. He added that most of World Bank projects were adopted by consensus.

123. The Special Rapporteur on the right to food expressed his concern that UNDP was being overshadowed by the growing influence of the Bretton Woods institutions. The observer for UNDP stated that, while there had been considerable reduction in core UNDP funds, UNDP continued to play its role as an independent and impartial programme providing advice and capacity-building to countries which requested them.

124. On trade-related issues, some delegations queried whether the current pace of liberalization was viable, and expressed concerns about an imbalance in negotiating power among WTO member countries. The observer for UNCTAD commented that there had been discussion on the possibility of a new round of trade negotiations, but the pace of liberalization could not be the same for all countries. The observer for WTO said that, from a purely economic perspective, the pace of liberalization was not fast enough. But we needed to take into account needs and capacities of developing countries as well as other measures designed to offset the negative effects of liberalization in the short run. He noted that WTO agreements provided specific provision, such as special and differential treatment and enabling clauses, to accommodate the needs and concerns of developing countries. Technical assistance was also available from WTO, UNCTAD and the WTO/UNCTAD International Trade Centre.

125. One delegation sought clarification from the IMF on substantive differences between ESAF and the PRGF. Quoting from recent reports on HIPC, the observer for UNESCO raised the concern that valuation of debt relief under HIPC was distorted and its progress had been slow with excessive conditionalities and lack of funding. The observer for the IMF responded that IMF had been trying to adjust its policies according to such concerns expressed by the members. He explained that ESAF and PRGF were similar in the sense that they identified and supported sound and appropriate macroeconomic policies, but the fundamental difference was that the new PRGF emphasized consensus-building and participatory approaches driven by a country-owned process with an explicit focus on poverty reduction.

126. On policy coherence, some delegations felt that the discussion on the right to development touched upon a wide range of issues, which concerned different decision-making bodies. One delegation suggested that it might be useful to have a dialogue between the Second and the Third Committees of the General Assembly, in which the Independent Expert might participate, with a view to promoting greater policy coherence and further operationalization of the right to development. Another delegation, however, stated that these were different issues to be dealt by different bodies within their respective mandates, and that discussion should be kept within the Working Group but with greater focus.

127. Some delegations felt that, while national aspects were important, more attention should be directed to the discussion on constraints at the international level for the realization of the right to development. The representative of OHCHR explained that the Declaration on the Right to Development expressly dealt with the international dimension. Hence the High Commissioner and her Office had been paying due attention to the international dimension

for the realization of the right, including in the advocacy and policy work of the High Commissioner. The Committee on Economic, Social and Cultural Rights had increasingly been exploring this obligation under the Covenant and engaged in discussions with international financial institutions.

128. Some delegations were interested in the experience of ILO in promoting the Declaration on Fundamental Principles and Rights at Work. The ILO robserver responded that the follow-up activities to the Declaration were promotional in nature and supplementary to the supervisory work of ILO. The Declaration was meant to: (a) help Governments to ratify basic ILO conventions; and (b) to help countries in establishing their own assessments in relation to those fundamental principles and rights. One way of achieving that was through preparation of global reports on fundamental rights, which would identify gaps in implementation of rights, assess how particular rights were implemented and identify the areas for which technical assistance could be provided by ILO.

129. The Chairperson characterized the debate as a very useful, open and frank exchange. It was evident that many issues and aspects that had emerged merited serious debate and constructive criticism. It was clear that international institutions were susceptible to change as they were member-driven institutions, which placed responsibilities on the member States and the international community.

130. The Independent Expert, in his final response, noted the evolution of policy changes in the international financial institutions towards poverty reduction and participatory processes. He hoped that, as a result of collective efforts, fulfilment of the right to development and other human rights would in due course become a major objective of the international community. He believed that development was not merely a problem of economic imbalance and transfer of resources, but was multi-dimensional and as such all aspects – including those related to finance, trade, intellectual property, debt – needed to be examined in a comprehensive and inclusive manner. The notion of a "development compact", first proposed by Mr. T. Stolenberg, was intended to build upon reciprocity or mutual implementation of obligations. The development compact would place developing countries as equal partners with equal and mutual obligations based on universal human rights. This reciprocity of obligation is the "value added" of the proposed development compact and a human rights-based approach. He added that the development compact would have to be country-specific, as countries would be in a position to identify priorities – be they food, education, health or other rights – and discuss them with the international community. The Independent Expert then elaborated on the need to have an independent arbitration mechanism built into the development compact, where countries could seek recourse.

E. National action for the realization of the right to development: commitments and partnerships

131. The representative of OHCHR reviewed the discussion of the first session of the Working Group relevant to the question of national action for the realization of the right to development in order to facilitate progress and avoid repetition of matters already covered by the Working Group. The discussion at the second session covered the topics of national programmes for the right to development, the role of women in development, the role of civil society, good governance and access to justice, HIV/AIDS and the role of the media.

132. On the role of women, some delegations, as well as the UNFPA, stated that respect for the human rights of women was an essential element in realizing the right to development. Discrimination against women diverted resources from them, held up social participation and excluded possible partnerships for development. Other delegations noted that the majority of the world's poor were women. To remedy this, gender-sensitive development through political commitment, legal reforms and administrative measures were needed, together with a commitment to provide resources. One important measure in this regard would be for all States to ratify the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and to withdraw any existing reservations. One delegation suggested that the Working Group could examine discrimination against minorities – whether of a national, ethnic, religious or sexual nature, including the phenomenon of double discrimination against women of such groups.

133. Delegations identified specific areas relevant to promoting the role of women in realizing the right to development, including: ensuring that women have the capacity to participate in Government and civil society; guaranteeing women's and girls' access to education; promoting women's sexual and reproductive rights; compiling disaggregated data on women, including within the CCA framework and the work of the United Nations Development Group (UNDG); amending legislation so that women have equal rights to inheritance; improving access to social security for women; involving women in conflict prevention and resolution; preventing gender-based violence; increasing the number of jobs for women; and improving employment standards for women. Some delegations also promoted the provision of micro-credit loans so that women could have the economic means to develop. The Independent Expert noted that the enjoyment of women's rights had a determinative role to play in the realization of all rights. The Independent Expert queried whether achieving this might require the allocation of greater resources to women's development if the right to development was to be effectively realized.

134. Some delegations reported on their national experiences. One delegation presented its experiences in promoting the rights of women. The delegation noted that projects were directed in particular to rural women and women members of minorities. Projects targeted in particular primary health care and access to clean water, the participation of women in local and provincial government, as well as strengthening the participation of women in civil society and the private sector. Affirmative action esd also being used as a vehicle to promote the role of women in development. Several delegations stressed the importance of affirmative action policies for women in their own national development policies. Some delegations stated that they had secured representation of women at a fixed level in local and provincial governments. One delegation believed that signing and ratifying conventions was not enough, and it had established a national commission on the status of women to promote the rights of women at the national level.

135. Some delegations noted the importance of promoting the role of civil society in promoting the right to development, and in monitoring its implementation. The Chairperson sought the view of the Working Group on the role of civil society – was it was in opposition to the State, or was its role to assist the State in implementing the right to development? One delegation underlined the need to examine the social responsibility of business as one

element necessary for the realization of the right to development. Some delegations stressed that the ultimate responsibility for promoting the right to development lay with Governments, but that civil society was often the best judge of policies.

136. Some delegations spoke about the importance of good governance and access to justice. They noted that good governance was important as corruption was one of the greatest obstacles to the realization of the right to development. In that regard, development programming that promoted an independent legal system and encouraged participatory, transparent and accountable Government and management was needed. Another delegation noted the importance of popular participation in Government as a way of promoting the interests of the poor. Some delegations also highlighted the need to fight crime, including cross-border crime, as well as the need to improve tax systems to assist in increasing national budgets for development.

137. Some delegations made presentations on development strategies in relation to the prevention and treatment of HIV/AIDS. One delegation stressed the fact that HIV had had a negative impact, not only on health, but also on food security, as well as ondevelopment generally. In that sense, it was necessary to break taboos against HIV, to prevent discrimination against people living with HIV/AIDS and to give high priority to bilateral and multilateral action to prevent and treat the virus. One delegation highlighted the high rates of HIV infection in the world, in particular in Africa, and referred to national plans for combating HIV/AIDS that included the protection of human rights, in particular the rights of women and prisoners. The delegation noted the creation of a solidarity fund that went beyond prevention schemes to include dissemination of information and the provision of resources for treatment. Some delegations raised the issue of the affordability of HIV treatments – an issue that linked to intellectual property protection of pharmaceuticals.

138. On the role of the media, some delegations underlined that access to information and communication and respect for the fundamental freedom of expression were essential for the empowerment of individuals. In that regard, free media were important, not only for democracy, but to fight poverty. Free and independent media could promote pluralism in public debates. The Chairperson added to the discussion on freedom of expression by noting that in all countries, certain reasonable restrictions on the freedom of expression existed and were not detrimental to the promotion of that freedom and the right to development. The World Federation of University Women emphasized the importance of access to technology, specifically information and communication technology, to the realization of the right to development in particular. The organization said that for women, access to the Internet was the key to their development. Nonetheless, the digital divide meant that many people did not have access, and greater attention needed to be given to monitoring access to the Internet. One delegation noted that the freedom of expression was open to abuse by private media interests, noting that the media were sometimes in the hands of corporations that promoted liberal political ideas uncritically. This hindered the full development of democracies.

139. Several other issues were raised under the item on national action. Some delegations stressed the need for the provision of financial resources for effective implementation of the right to development at the national level. Several delegations also stressed that access to education at the national level was key to the realization of the right to development. Several

delegations also stressed the importance of the role of the private sector to the promotion of the right. Providing an environment that encouraged direct private investment in that regard included implementing effective trade and economic policies as well as creating partnerships for development. Another delegation stressed the problems posed by population growth such as unemployment and housing problems. The delegate noted that such problems particularly affect young people. Another delegation described national successes in ensuring food security for its people. Some delegations also stressed the importance of economic growth, the removal of trade barriers, debt relief and increases in ODA as necessary for the promotion of the right to development at the national level. One delegation highlighted the negative impact of economic sanctions on the enjoyment of the right to development. Finally, a number of delegations noted that the national and international dimensions of the right to development were closely connected.

F. International action for the realization of the right to development: commitments and partnerships

140. A representative of OHCHR introduced the item by reviewing discussion at the first session. She recalled articles 3(1), 4(1) and 4(2) of the Declaration on the Right to Development that set out the national and international dimensions of the right to development relevant to the discussion under the item. The attention of the Working Group was drawn to the report of the High Commissioner on the enhancement of international cooperation (E/CN.4/2001/95), which would be submitted to the fifty-seventh session of the Commission on Human Rights. She reviewed the legal framework of the report, noting the relevance of the Declaration on the Right to Development.

141. A representative of the secretariat of the Committee on Economic, Social and Cultural Rights (CESCR) explored the legal framework of international cooperation contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and summarized the work of the Committee with respect to international cooperation.

142. She also referred to General Comment No. 2 (contained in document E/1990/23) of the Committee on "International technical assistance measures", as well as to the participation of international organizations in the discussions of the Committee. Based upon the text of the Covenant, the international cooperation was to be seen as an element of international human rights law. She encouraged the Working Group to interact with the Committee and to take account of the Committee's work. Some delegations underlined the importance of CESCR in defining State obligations and in interacting with international financial institutions. Some delegations stated that CESCR together with the international financial institutions should be part of a monitoring body for the right to development yet be defined. In responding to questions from some delegations, the representative of the secretariat of CESCR stated that the Committee, in its constructive dialogue with States parties, was compiling information on its work on international cooperation. She stressed that CESCR referred to the question of international cooperation with care, in light of the sensitivity of the issue.

143. On the role of women, some delegations noted the importance of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and its role in understanding the international dimension of the right to development. The observer

for the International Federation of University Women underlined the importance of access to and the participation of women in deciding on alternatives. Micro-credit programmes and a holistic approach to mainstreaming gender equality would give legitimacy to the proposed development compact. The observer also favoured a continuing dialogue between CESCR and the Working Group. She suggested that because of its importance in some countries the informal sector should be considered as an element of the "vector" concept put forward by the Independent Expert. She also proposed that better access for developing countries to markets should be promoted.

144. Some delegations underlined the need for balancing national action and international cooperation. Other delegations stressed the importance of national sovereignty within the context of international cooperation. Some delegations stressed that the State had the primary responsibility for realizing the right to development. Some underlined the need to define better the content of the international commitment/obligation with regard to the right to development. One delegation recommended that the obligation to provide 0.7% of GDP for international cooperation should be respected by developed countries. One delegation believed that through its contribution to building peace and security in the South, international cooperation was also benefiting the North.

145. Another delegation noted that foreign debt constituted an obstacle to the realization of the right to development. One delegation stated that cooperation for development was relative, and depended on the needs of particular countries. One delegation stated that for the eradication of poverty, political will both at the national and international levels was necessary. Some delegations emphasized that the right to development was not a matter of charity but rather a shared responsibility. One delegation underlined the need to set up an effective mechanism to guarantee stability in financial markets.

146. Some delegations noted that the imposition of economic sanctions and unilateral coercive measures constituted important obstacles to the realization of the right to development. Another delegation noted that the reasons for imposing economic sanctions must also be examined in any discussion on this topic.

147. Some delegations underlined the important role of the private sector in promoting the right to development. They pointed out that the private sector could promote the right to development through increased investment and the transfer of technology, knowledge, management and experience, as well as through the creation of employment. According to one delegation, private enterprises could also promote regional economic integration. One delegation said that foreign investment could lead to growth and suggested that the Working Group should examine this through the right to development lens. Another delegation suggested that foreign investment should respect national interests. One delegation asked the Independent Expert to review intellectual property regulations that hindered developing countries' access to technology, including medicines. Some delegations noted that the activities of non-governmental actors, including multinationals, were hindering the implementation of the right to development.

148. On the issue of access to markets, some delegations argued that unfair market conditions, for example through subsidies, hindered developing countries in developing their exports and

maximizing their competitive advantages. That, in turn, negatively affected the enjoyment of the right to development. Some delegations condemned conditionalities in the form of trade preferences. One delegation referred to the General Assembly resolution 52/136, stressing that human rights should not be used as an instrument of trade protectionism. Some delegations said that developing countries should be given the possibility to participate more in general, and in particular be given a more important role in discussions at the WTO. One delegation considered the WTO as a partnership-building forum based upon reciprocal obligations. Another delegation believed that a new WTO negotiation round would open markets for further goods and services. One delegation noted that, in the future, the Working Group should look at obstacles to accessing markets.

149. On the international economic order, some delegations underlined that, in the interests of promoting the realization of the right to development, the current international economic order needed to be changed. One delegation noted that the political changes of the 1990s had directed development policy towards decentralized cooperation. In response to a question by the Independent Expert, one delegation noted that it was with the right to development in mind that, as next President of the G-8, it was preparing the next G-8 summit in Genoa, Italy, in July 2001. The delegation noted that the Working Group could be of particular value in such an endeavour, after full endorsement by the next session of the Commission on Human Rights, if the Working Group would be able to identify, with a constructive attitude, a few qualified items that could be considered positively by the G-8. Some delegations noted that because of armed conflicts, some countries did not contribute to changing the existing international economic order. One delegation noted that the Working Group should define clear guidelines on an appropriate international economic order enabling improved realization of the right to development. Another delegation underlined that developing countries also had a responsibility to create an enabling environment.

150. Some delegations stated that the globalization process had lead to a further widening of the gap between the North and the South. One delegation noted that while globalization provided opportunities, what developing countries needed were improved capacities. Some delegations suggested that principles of the new international economic order should guarantee national sovereignty and that all countries should have the same possibilities to participate at the international level and to enjoy the right to development. Some delegations underlined the importance of national sovereignty over economic resources. In view of the complexity of globalization, another delegation underlined the need for further systematic analysis of its various aspects.

151. One delegation noted that the partnership between the North and South had to be further developed, that confidence-building measures, regional disarmament and control of the trade in arms had to be promoted further. One delegation stated that the effects of munitions used during armed conflicts, including depleted uranium, on the realization of the right to development should be further studied.

152. Some delegations stated that HIV/AIDS and other diseases constituted a threat, not only to the right to development, but also to international peace and, consequently, more needed to be done at the international level to fight them. One delegation noted that international partnership programmes and action plans, based on poverty reduction, helped fight disease.

153. On the role of NGOs in the discussion of the right to development, some delegations suggested that OHCHR should convene an annual forum on the right to development for NGOs to express their views and constribute further to international examination of the question.

154. Some delegations noted the importance of devoting appropriate attention to migrants and other vulnerable groups in future follow-up.

155. One delegation recalled General Assembly resolution 55/210, adopted by consensus at its fifty-fifth session, on the implementation of the first United Nations Decade for the Eradication of Poverty (1997-2006), including the initiative to establish a world solidarity fund for poverty eradication and the promotion of social and human development in the poorest regions of the world. The delegation invited the Working Group to take this resolution into account in its outcome.

156. The Chairperson noted that the dialogue between the Working Group and other institutions and organs had to be extended. The Chairperson stated that the compact suggested by the Independent Expert mirrored articles 11, 12 and 13 of the ICESCR and that those articles should inform the work of the Working Group. He noted that the right to food had to be implemented within a country and among States. The Chairperson also suggested that the recommendations of the Social Summit should be taken up by the Working Group. He emphasized the importance of partnerships, in particular at the local level, which would reinforce the sharing of benefits.

G. Conclusions of the Chairperson

1. Introduction

157. On 2 March 2001, the Working Group met in plenary session for the submission by the Chairperson of his conclusions. Following the Chairperson's closing remarks, group coordinators made presentations expressing appreciation to the Chairperson and support for his efforts aimed at moving forward the process of the realization of the right to development, as well as for the efficient way that the deliberations of the Working Group had been conducted under his guidance. They also expressed the need for the continuation of the work of the Working Group in order to address the outstanding issues on its agenda. Some delegations expressed reservations to the Chairperson's conclusions. These delegations were invited by the Chairperson to submit, in writing, their views. These views have been annexed to the report (annex III).

2. Chairperson's conclusions

158. The Open-Ended Working Group on the Right to Development (Open-Ended Working Group) met in two sessions, from 18 to 22 September 2000 and 29 January to 2 February 2001.

159. The exchange of views that took place on the topics identified during the second session of the Open-Ended Working Group was conducted, as was the case at its first session, in a frank, interactive and positive manner.

160. In addition to the discussion of the Independent Expert's reports, several topics related to the actions that required to be taken both at national and international levels were debated in a focused fashion.

161. At the request of all regional groups, the Chairperson prepared draft elements for an agreed outcome of the session.

162. Subsequently, the majority of delegations accepted the Chairperson's text as a basis for reaching an agreed outcome. Five delegations (Australia, Canada, Japan, New Zealand and the United States of America), however, expressed difficulties with starting the negotiations, arguing that they were not able to receive instructions from their respective authorities.

163. Eager to preserve the cohesion of the Working Group, as well as the positive and fruitful exchange of views during the session, the Chairperson, in consultations with regional groups, decided to grant sufficient time (three weeks) to allow the five above-mentioned delegations to seek instructions from their capitals.

164. Consequently, the Working Group resumed its work in informal session for two days, 26 and 27 February 2001.

165. A number of amendments submitted by delegations were brought to the attention of the Working Group. A first reading of the Chairperson's paper was completed and a large portion of this text enjoyed support from a wide majority of delegations.

166. However, the five delegations listed above were not able to join the emerging consensus on some elements of the text.

167. With the objective of reaching the widest possible agreement, the Chairperson decided to draw his own conclusions based on the debate in the Working Group as well as in the informal consultations, as an integral balanced package proposal.

168. As stated at the second session of the Working Group, delegations with dissenting views are invited to submit their comments and observations to the Chairperson and these will be annexed to the report.

3. Report of the Independent Expert

169. On the basis of the text of the Declaration on the Right to Development (1986), reaffirmations in several subsequent Commission on Human Rights and General Assembly resolutions, as well as declarations adopted at international conferences including the 1993 Vienna Declaration and Programme of Action which confirmed that the right to development is a universal and inalienable right, it should now be possible to consolidate and enhance

action in a concerted manner towards the full implementation of the right to development, as established in the Declaration on the Right to Development.

170. There was a general appreciation of the reports of the Independent Expert and of his additional work and clarifications on the "development compact" proposal, which contributed to a better understanding of this proposal. However, it was generally felt that further clarifications were needed.

171. The proposed "development compact" would be of a voluntary nature for all parties involved. Its content would be defined on a case-by-case basis and be adapted to priorities and realities of any country willing to conclude such a compact which would need the adherence and the support of all international actors involved in its implementation.

172. In this context, the Independent Expert was requested to further clarify the proposed "development compact", taking into consideration views expressed during the two sessions of the Working Group, and in broad consultations with the Office of the High Commissioner for Human Rights (OHCHR), relevant United Nations agencies, international and regional organizations, NGOs and, in particular, with those actors and States interested in developing pilot projects in this regard, keeping in mind:

a) The ongoing bilateral and multilateral development cooperation programmes including national and regional programmes;
b) The need to formulate an operational model for the "development compact";
c) The views of concerned international organizations, agencies and relevant regional institutions;
d) The need to ensure its added value and complementarity to the existing relevant mechanisms;
e) The need for country-specific studies both from national and international perspectives.

173. As per the Declaration on the Right to Development, States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development and their commitment to cooperate with each other in ensuring development and eliminating obstacles to development is critical to the realization of the right to development and is a necessary complement to efforts at the national level.

174. According to the Declaration on the Right to Development, the human person is the central subject of development. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

175. The realization of the right to development is essential to fulfil the vision of the Vienna Declaration and Programme of Action which regards all human rights as universal, indivisible, interdependent and interrelated. The lack of development may not be invoked to justify abridgement of internationally recognized human rights.

176. To realize the right to development, national action and international cooperation must reinforce each other in a manner that goes beyond the measures for realizing each individual right. It was recognized that international cooperation for the realization of the right to development should be conducted in a spirit of a partnership, in full respect of all human rights which are universal, indivisible, interdependent and interrelated.

177. Although development deficits and needs vary from one country to another, for many developing countries, the realization of the rights, *inter alia,* to food, health and education may be important development entry points to the realization of the right to development. In this context, there was appreciation for the Independent Expert's concept of a "development compact" with its intent to give expression to some basic tenets of the interdependence of all human rights and national ownership of development strategies and development programmes, as well as the importance of international cooperation.

178. Although the nature of the follow-up for the right to development has not been defined, there was a recognition of the need for discussion to consider a suitable follow-up in the future.

4. National action for the realization of right to development

179. The primary responsibility for adoption of policies, setting priorities, allocation of resources and follow-up for the right to development is that of national Governments.

180. The necessity of establishing, at the national level, an enabling legal, political, economic and social environment for the realization of right to development was underlined. In this context, the importance of democratic, participatory, transparent and accountable governance was stressed. The need for efficient national mechanisms such as national human rights commissions to ensure respect for civil, economic, cultural, political and social rights, without any distinction whatsoever, was also underlined.

181. The need to prevent, address and take effective action against corruption at the national level, including a firm legal structure for eradicating corruption, was emphasized and States were urged to take all necessary measures to that end.

182. The importance of the role of the State, civil society, free and independent media, national institutions, the private sector and other relevant institutions in the realization of the right to development was acknowledged. A need to continue discussions on this subject was also expressed.

183. The role of women in the process of the realization of right to development was fully recognized, including their role as active actors in and beneficiaries of development, and further actions in this context are needed to ensure the participation of women on equal terms with men in all fields in the realization of right to development.

184. The promotion of gender equality and the empowerment of women as an effective means to combat poverty, hunger and disease and to stimulate sustainable development were widely recognized. The importance of equal rights and opportunities for women and men, including

property rights for women and access to bank loans, mortgages and other forms of financial credit, taking into account best practices of micro-credit in different part of the world, was also reaffirmed.

185. In the process of the realization of the right to development, special attention should be given to persons belonging to minorities, whether national, ethnic, religious or linguistic, as well as to persons belonging to vulnerable groups – for instance indigenous people, Roma, migrants, persons with disabilities, children and persons infected with HIV/AIDS . This attention should have a gender perspective.

5. International action for the realization of the right to development

186. The Working Group should translate through concrete recommendations the commitment made at the Millennium Summit to make the right to development a reality for everyone and the resolve to create an environment at the national and global levels which is conducive to development and to the elimination of poverty. Success in meeting these objectives depends on good governance at the international level and on transparency in the financial, monetary and trading systems as well as an open equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.

187. The creation of an enabling international environment through a clear assessment of impediments existing at the international level was highlighted. In this context, the duty of international cooperation for realization of the right to development as stipulated in article 3 of the Declaration on the Right to Development was stressed.

188. Bearing in mind the existing efforts in this respect, it is necessary to enhance efforts at evaluating and addressing the impact of international economic issues such as international macro-economic decisions-making, debt burden, international trade, market access, functioning of international financial institutions, transfer of technology, bridging of the knowledge gap (digital divide), impact of intellectual property regimes, fulfilment of international development commitments and migration issues on the enjoyment of human rights.

189. In the above context, the Independent Expert should prepare, in consultation with all relevant United Nations agencies and the Bretton Woods institutions, a preliminary study on the impact of these issues on the enjoyment of human rights for consideration by the Working Group at its future sessions.

190. The need to prevent, address and take effective action against corruption at the international level was emphasized and States were urged to take all necessary measures to that end.

191. The need for international solidarity and cooperation for realization of the right to development was emphasized with particular mention of the achievement of the internationally agreed development commitments and targets including, *inter alia*, for food, health, primary education and poverty eradication.

6. Future work

192. In view of the urgent need to make further progress towards the realization of the right to development as elaborated in the Declaration on the Right to Development, and based on the established practice of the Commission on Human Rights, the mandate of the Working Group on the Right to Development should be extended for one session of 10 working days between the fifty-seventh and fifty-eighth sessions of the Commission of Human Rights.

193. Extension of the mandate of the Independent Expert for one year is also required with sufficient technical and financial resources to be made available to him in fulfilment of his mandate.

Annex I

LIST OF DOCUMENTS OF THE FIRST SESSION

Documents of the Working Group

E/CN.4/2000/WG.18/2	Provisional agenda
E/CN.4/2000/WG .18/CRP.1	Report of the Independent Expert on the right to development
E/CN.4/2000/WG.18/CRP.2	Report of the High Commissioner for Human Rights
E/CN.4/2000/WG.18/CRP.3	Contribution of the European Union
E/CN.4/2000/WG.18/CRP.4	Contribution of the Like-Minded Group of Countries
E/CN.4/1999/WG.18/CRP.1	Contribution of the Government of Japan
E/CN.4/1999/WG.18/CRP.2	Contribution of the Government of Denmark
E/CN.4/1999/WG.18/CRP.3	Contribution of the Centre Europe-Tiers Monde

Background documents

General Assembly resolution 54/175	The right to development
General Assembly resolution 41/128	Declaration on the Right to Development
A/55/283	Report of the Secretary-General on the right to development
A/CONF.157/23	Vienna Declaration and Programme of Action
Commission on Human Rights resolution 2000/5	The right to development
Commission on Human Rights resolution 1998/72	The right to development

Annex II

LIST OF DOCUMENTS OF THE SECOND SESSION

Documents of the Working Group

E/CN.4/2001/WG.18/1	Provisional agenda
E/CN.4/2001/WG.18/2	Third report of the Independent Expert on the right to development
E/CN.4/2001/WG.18/CRP.1	Information supplied by the Government of Fiji
E/CN.4/2001/WG.18/CRP.2	Information supplied by the Government of Bolivia

E/CN.4/2001/WG.18/CRP.3	Information supplied by the Government of Azerbaijan
E/CN.4/2001/WG.18/CRP.4	Information supplied by the Government of Portugal
E/CN.4/2001/WG.18/CRP.5	Information supplied by the Government of Sweden
E/CN.4/2001/WG.18/CRP.6	Information supplied by the Government of Azerbaijan
E/CN.4/2001/WG.18/CRP.7	Information supplied by the American Association of Jurists
E/CN.4/2001/WG.18/CRP.8 Group	NGO proposals for the Open-Ended Working on the right to development
E/CN.4/2001/WG.18/CRP.9	Proposals on the right to development by the Lutheran World Federation (LWF): a pilot right to development-compact experiment in LDCs
E/CN.4/2001/WG.18/CRP.10	Proposed programme of work for the second session of the Open-Ended Working Group on the Right to Development
E/CN.4/2000/WG.18/CRP.5/Rev.1	Aide-mémoire prepared by the secretariat of the first session of the Open-Ended Working Group on the Right to Development
E/CN.4/2000/WG.18/CRP.6	Chairperson's summary of the first session of the Open-Ended Working Group on the Right to Development

Background documents

E/CN.4/2001/24	Report of the Secretary-General on the right to development
E/CN.4/2001/25	Report of the High Commissioner on the right to development

Annex III
COMMENTS SUBMITTED BY STATES

I. COMMENTS SUBMITTED ON BEHALF OF THE REGIONAL GROUP FOR LATIN AMERICA AND THE CARIBBEAN (GRULAC)

1. GRULAC emphasizes that a follow-up mechanism for the right to development is required, even if the nature of such a mechanism needs further discussion.

II. COMMENTS SUBMITTED BY THE EUROPEAN UNION

2. The EU attaches great importance to making progress on the right to development, as established in Part I, paragraph 10, of the Vienna Declaration and Programme of Action of 1993. In this spirit, the Union submitted on 22 February 2001 written amendments to the Chairperson's proposed elements for an outcome, with a view to reaching a consensus outcome. However, from the negotiations it is clear that further work is needed to reach this goal on all aspects and on both dimensions – national and international – of this right. The EU reserves its position on the outstanding issues and will revert to them at a later stage.

3. The EU recognizes that the Chairperson's conclusions do not necessarily reflect consensus. However, it believes that in order to allow further progress on this right and possible evolution of Member States' positions at a later stage, normal reporting rules and procedures as well as language within the United Nations and the Working Groups under the Commission on Human Rights should be applied. The Union therefore suggests that paragraphs 162, 163, and 166 of the Chairperson's conclusions be moved to the report of the Working Group, which reflects the proceedings and the developments of the negotiations, and formulated accordingly as "some delegations expressed reservations ...."

4. On substantive issues, the Union wishes to refer to its contribution contained in document E/CN.4/2000/WG.18/CRP.3 and its proposals reflected in E/CN.4/2000/WG.18/CRP.5/Rev.1. Furthermore, it reiterates the positions expressed in its interventions and statements during the two sessions of the Working Group, which were delivered on 18, 19, 21 and 22 September as well as on 29, 30, 31 January and 2 February. Finally, the Union reiterates its willingness to continue the negotiations on the basis of the consensus elements reached in the Open-Ended Working Group on the Right to Development.

III. COMMENTS SUBMITTED BY THE UNITED STATES OF AMERICA

5. The Chairperson's closing observations on the Open-Ended Working Group on the Right to Development do not constitute an accurate record of the negotiations. The sessions of the Working Group that took place on 26 and 27 February 2001 clearly showed that no consensus exists on the Chairperson's proposed conclusions. Suggested changes to and disagreements with the Chairperson's proposals for an outcome came from every regional group.

6. In spite of widespread disagreements, the Chairperson chose to single out for criticism five countries that disagreed with his own conclusions.

7. There is no international consensus on the precise meaning of the right to development. Given the lack of conceptual clarity that has surrounded the right to development since its inception, we believe that it will be very difficult for the international community to arrive at a consensus on its implementation.

8. The most fundamental flaw reflected in the approach of the Independent Expert concerning the development compact is the idea that economic, social and cultural rights are entitlements that require correlated legal duties and obligations. At best, economic, social and cultural rights are goals that can only be achieved progressively, not guarantees. Therefore, while access to food, health services and quality education are at the top of any list of development goals, to speak of them as rights turns the citizens of developing countries into objects of development rather than subjects in control of their own destiny.

9. The United States strongly believes that States have the primary responsibility for the creation of national conditions favourable to development. The workings of the free market, supported by clear property rights and the rule of law, have proved worldwide to be the best and fastest way to achieve these development goals.

10. Finally, the United States opposes tasking the Independent Expert with preparing a report on the impact of international economic issues (such as international macroeconomic decision-making, debt burden, international trade, market access and transfer of technology) on the enjoyment of human rights. This task, as framed by the Chairperson, is clearly outside the mandate of the Independent Expert. Other institutions, such as UNDP and the World Bank, are currently involved in these types of studies.

11. We regret that recent discussions engaged in by the Working Group have not advanced the cause of development. We would support further discussion in the proper forums that address the root of development and would help States Members of the United Nations reach our shared goals of poverty alleviation and sustainable development. When millions languish in poverty, held back by poor skills, inadequate access to capital, government policies that limit their options and flawed enforcement of the rule of law, it is wrong to divert attention and effort by holding a highly politicized debate.

IV. COMMENTS SUBMITTED BY NEW ZEALAND

12. New Zealand has participated actively and constructively in the discussions in the Working Group along with other delegations.

13. We strongly object to the conclusions which single out our country (along with four others) by name. This is contrary to standard United Nations practice in Working Group reports.

14. As an indication of the seriousness of our engagement in the Working Group, we sought instructions from our capital on [the Chairperson's] proposed conclusions. It is inappropriate and unacceptable to criticize us for doing so.

15. By stating that our delegation (along with four others) was unable to join the emerging consensus on some elements of the text wrongly implies that firstly, there was an emerging consensus and secondly, that it was our concerns alone that prevented the Working Group from achieving consensus. In our discussions the EU, African, GRULAC and some Asian delegations also expressed concerns and proposed amendments to the text.

16. With respect to the section of the Chairperson's conclusions on the report of the Independent Expert, New Zealand agrees that the Working Group generally felt that the idea of a possible international development compact requires further clarification and development. We do not, however, consider that it is an accurate reflection of the discussions in the Working Group to use language, as in paragraphs 171 and 177, that implies acceptance or endorsement of the concept.

17. In the section on international action for the realization of the right to development, it is our recollection that while some useful discussions were held there was no agreement that the Independent Expert should undertake a study on the impact of international economic issues on the enjoyment of human rights. New Zealand has strong reservations about the feasibility and desirability of having the Independent Expert undertake such a task. Other institutions are currently engaged in looking at these issues and it would be useful to consider what is already being done in this regard. In our view the most direct and appropriate way for countries to deal with these issues is through the institutions concerned. We note for example that the WTO is currently undertaking a review of the TRIPS Agreement where members have the opportunity to raise concerns.

V. COMMENTS SUBMITTED BY CANADA

18. The Government of Canada is pleased to have the opportunity to make some preliminary comments on the "Chairperson's conclusions" that have come out of the Open-Ended Working Group on the Right to Development.

19. As a starting point, it is our view that we had an open, constructive and practical dialogue on the right to development during the two sessions of the Working Group which is an essential step towards our common goal of ensuring the implementation of the right to development. The wide-ranging discussions in the informal meetings were clear evidence of our common interest in this subject. The discussions also reflected the fact that while there may have been a coalescing of views on particular issues, there was no consensus in the room on key aspects of the question of implementation or on the paper as a whole. Indeed, at the closing moments of the informal meeting of the Working Group on Friday, 2 March, considerable portions of the paper remained open for discussion.

20. It is unfortunate that the Chairperson chose to single out a few delegations specifically by name, which is contrary to standard practice in reports to the Commission on Human Rights and does not help to promote constructive dialogue. We also have serious concerns with respect to the specific content of paragraphs 161, 163, and 166, both in terms of substance and process. As well, we have concerns with paragraph 168 where the Chairperson says that the dissenting opinions will be annexed to the final document. While it is true that the five

delegations named requested a postponement, this was done in good faith and without any attempt to delay or derail discussions. In actual fact, there was insufficient time to consider the document during the afternoon and evening of 2 February, which meant that a postponement would have been necessary in any event. In addition, paragraph 166 erroneously suggests that these five delegations were unable to join the "emerging consensus" on some elements of the text when, in fact, a number of other delegations had raised concerns and there was no emerging consensus.

21. With respect to the substance of the Chairperson's paper, we must state at this point that we continue to have concerns regarding the references to the proposal for a "development compact" put forward by the Independent Expert. As well, we have some concerns about the references to a "process of the realization" of the right to development, particularly given the discussions in the Working Group on the characterization of the right to development as a "right to a process".

22. As we have stated in past sessions of the Commission on Human Rights and in the Working Group, Canada is strongly supportive of the Declaration on the Right to Development and the link between the right to development and respect for the full range of rights set out in the two Covenants. We feel it is important that any report from the Working Group be consistent with the Declaration and the Covenants.

23. We believe that the paper should include an explicit recognition of the importance of good governance, democracy, the rule of law, and the fight against corruption to the realization of the right to development. We would note that the suggestions which were put forward by Canada and other delegations on these subjects were not included in the Chairperson's paper although no objections were voiced to the proposals.

24. We continue to have serious reservations about the proposal for the Independent Expert to undertake a preliminary study on the impact of a broad range of international economic issues on human rights. In our view, such a study would likely be beyond the limits of the capacity of the Independent Expert and the Working Group. We should concentrate our efforts and resources on more focused goals.

25. In accordance with the previous practice of the Working Group, we would suggest that, if the mandate of the Working Group is to be extended, it be for one session of five days between the fifty-seventh and fifty-eighth sessions of the Commission on Human Rights.

26. The Government of Canada has serious concerns regarding the summary document as presented to the Working Group and we would request that changes be made to the document to reflect the above concerns.

IV. COMMENTS SUBMITTED BY AUSTRALIA

1. Introduction

27. Australia has been pleased to be part of the open and constructive discussion on the right to development that has taken place during the two sessions of the Open-Ended Working Group

in Geneva. Progress was made on moving towards a consensus on some issues. In particular, we were pleased to note the prominence, in the Working Group and in the work of the Independent Expert, on the need for partnership. Australia also took note with great interest of the work currently being undertaken on this partnership-based approach to development within the United Nations system, and by international financial and aid agencies and institutions, including the Bretton Woods institutions. While progress on other issues did not necessarily reach a point of agreement, the clarification of concepts and country positions that occurred through discussion in the Working Group was of itself an extremely useful process for all concerned.

28. However, it also became apparent during the course of the Working Group that there were a number of issues requiring further examination and consideration by States, and about which it could not accurately be said that any consensus existed by the time negotiations concluded on 27 February 2001. This is readily apparent from the extremely unfinished nature of the "negotiating text". Although we note the view of the Chairperson that the new Chairperson's text supersedes this draft, we believe the negotiating text should be attached to the report of the Open-Ended Working Group to the fifty-seventh session of the Commission on Human Rights as it speaks clearly of how negotiations stood at the conclusion of the Working Group's work.

29. Australia would like to make the following written comments concerning the "Chairperson's conclusions".

2. Chairperson's conclusions

30. As was noted in the joint statement made by Japan, Australia, the United States of America, Canada and New Zealand to the Working Group on the afternoon of 2 March, Australia strongly disagrees with certain of the assertions made in this section concerning the actions of this group of countries during the Working Group. Australia believes it is extremely unusual for a Chairperson's statement of this nature to single out any particular countries by name, and we feel that this is unhelpful in maintaining the Chairperson's stated goal of the cohesion of the Working Group, while promoting an unfortunate misinterpretation of the actions of these countries. We are also concerned that the degree of consensus or agreement at times alluded to in this section is not necessarily an accurate reflection of the state of play within the Working Group at this time.

31. Of particular concern to us are paragraphs 162, 163, 165 and 166 of this section. Concerning paragraphs 162 and 163, Australia, along with these other four countries, did not question the proposal to move forward on the basis of the Chairperson's text, in fact it was made clear in statements to the Working Group that this was the most useful way forward. All that these countries requested from the Chairperson and the Working Group was further time to receive instructions from capitals before endorsing any final text or future work. Australia has maintained that the work of the Working Group should not be rushed if it is to ensure the quality and practicality of the outcome, and this request by this group of countries was consistent with that position. Indeed, it was readily apparent when the Working Group reconvened for informal discussions on 26 and 27 February that in fact all delegations in the

room had used the intervening time constructively and that the depth of discussions benefited as a result.

32. Unfortunately, Australia also must strongly disagree with the assertion in paragraph 8 that the first read-through of the proposed text on 26 and 27 February 2001 saw "large portions of the text" enjoy "support from a wide majority of delegations". Australia also takes great exception to the assertion in paragraph 166 that it was the five delegations of Japan, Australia, the United States of America, Canada and New Zealand that alone were "not able to join the emerging consensus on some elements of the text". These assertions are incorrect. The "negotiating text" document provided to the Working Group by the secretariat on Friday, 2 March represented the text following a first read-through. Little if any of this text is unaffected by square brackets of alternative text proposals. In essence, it records the healthy debate and range of opinions put forward by the EU, countries from the Asian, African and GRULAC groups, and Australia and the other four countries mentioned during this first read-through. This text eloquently demonstrates both the inaccuracy of singling out Australia, Japan, the United States, Canada and New Zealand as responsible for in any way preventing the Working Group achieving consensus on these issues.

3. Report of the Independent Expert

33. Australia acknowledges the work done by the Chairperson in attempting in his revised text to find an acceptable compromise on reporting how the Working Group chose to view the work of the Independent Expert - particularly concerning the "development compact" concept proposed by him. However, Australia remains concerned that the text proposed by the Chairperson continues to imply that there was a base level of acceptance of this concept in the Working Group, and even goes so far, in paragraph 177, as to indicate that the Working Group endorsed the "development Compact". This is not an accurate reflection of the Working Group's consideration of this subject, which, particularly as regards any future clarifying work by the Independent Expert was concerned, was simply not concluded.

34. Australia is unconvinced that the indicators put forward in subparagraphs (a) - (e) were agreed by the group and, in particular, believes that the usefulness of any exploration by the Independent Expert of individual country studies is a matter of contention. Australia believes that any work beyond a survey of existing international, regional and bilateral arrangements paralleling the "development compact" is premature at this time and could not be said to be endorsed by the Working Group.

35. Australia also would take exception to the implication in paragraph 178 of agreement within the Working Group that some form of future follow-up on the right to development is considered necessary, with the details to be sorted out later after discussion. This proposal is entirely premature and we are not aware that there was agreement in the Working Group on it at this time, for this very reason.

4. National action for the realization of the right to development

36. Australia is concerned that the Chairperson's text does not accurately reflect the balance between the national and international aspects of the right to development. While the need

for balance was recognized by all, no agreement was arrived at in the Working Group on how to articulate this balance in its recommendations. Australia is concerned that the Chairperson's text on national action not only does not reflect the discussions in the Working Group on this issue, but in fact regresses from his previous draft on this section. Australia would draw attention to the joint paper submitted by Japan, Australia, the United States, Canada and New Zealand on 27 February 2001, and also the text suggestions on national action we made during that informal meeting. Australia is deeply disappointed that of the textual suggestions put forward by us and discussed by the Working Group -good governance, democracy, the fight against corruption, and the entrenchment and protection of the rule of law - the new Chairperson's text includes only material on corruption, despite there being no objection within the group to the other text, which we reproduce:

> "The Working Group underlined the importance to realizing the right to development of strengthening good governance at the national level including through building effective and accountable institutions for promoting growth and sustainable human development, while recognizing of course that responsibility for determining and implementing good governance practices rests with the State concerned.
>
> "The Working Group further acknowledged that to realize the right to development, States should take steps to promote democratic goals such as freedom of thought, conscience, religion, belief, peaceful assembly and association as well as freedom of expression, freedom of opinion, and a free, independent and pluralistic media. The Working Group acknowledged the importance of the rule of law and access to justice for realization of the right to development. An effective, equitable legal system promotes and protects the human rights of individuals, builds and safeguards democracy and encourages transparency and accountability by government."

37. These paragraphs should continue to be reflected in the text, particularly the reference to the importance of good governance to national actions for the realization of right to development. The importance of good governance at the national level to the promotion and protection of all human rights has been recognized and endorsed by the Commission on Human Rights and also in the Millennium Declaration. We believe the removal of these paragraphs and their replacement by the lesser formulation of paragraph 180 is not an accurate reflection of the deliberations of the Working Group.

5. International actions for the realization of the right to development

38. Again, Australia is concerned by a number of assertions within this section which suggest the Working Group had reached agreement or consensus on the issues or strategies canvassed. Australia continues, as it did during the Working Group, to take exception to the almost exclusive focus upon (primarily economic) "impediments" to development at the international level. This of course also implies that globalization and the existing global economic environment is itself antipathetic to development and realization of the right to development. As was recognized by all States in the Millennium Declaration, globalization does involve challenges and uncertainty but it also offers opportunities. The text must reflect this balance to accurately reflect the Working Group's discussion and consideration of the international context.

39. Similarly, Australia disagrees with the assertion that an "enabling international environment" needs to be "created" – suggesting that such an enabling environment does not already exist – and is also concerned at the text's reminder of the duty of international cooperation, again an implication that such cooperation does not already voluntarily occur. The discussion in the Working Group and the presentations of many international institutions would suggest that the contrary is in fact the case.

40. Australia would have serious reservations about the feasibility and desirability of the proposal put forward in paragraph 4 for having the Independent Expert on the right to development examine the human rights impact of a wide range of international economic issues. This proposal was the subject of considerable discussion within the Working Group, and Australia does not believe that agreement was reached that such a study would be endorsed by the group. Indeed, there was a strong view put forward during the informal discussions on 26 and 27 February that at this stage, it would only be appropriate to request that the Independent Expert conduct a preliminary study into how such issues are already being addressed at the international level in the development context, to assist the Working Group in its future deliberations as to whether additional work was in fact required.

6. Future work

41. While there was considerable discussion of the issue of meetings, with some groups favouring maintenance of the current five days per annum and others, including the Chair, suggesting ten days, there was no agreement within the Working Group to extend its mandate to ten days per year, if the mandate is to be renewed.

VII. COMMENTS SUBMITTED BY JAPAN

1. Letter to the Chairperson

42. Our delegation appreciates many elements of the "National action for the realization of the right to development" and "International action for the realization of the right to development" sections of the Chairperson's conclusions because our intensive discussion throughout the Working Group has been somewhat reflected therein. At the same time, our delegation would like to have every country and party concerned make efforts to continue a constructive dialogue based on the elements referred to in the said sections.

43. Our delegation recalls, with deep disappointment, the fact that a working paper entitled "Proposed amendments to the Chairperson's text on the draft outcome to the second session of the Working Group, presented on behalf of GRULAC and the African and Asian Group s" was widely distributed in the course of the drafting session. Our delegation is able to identify some countries in Asia, including ours, which have expressed their wish to dissociate themselves from the paper, and therefore has to point out that this working paper is in no way a joint paper of the three regional groups.

2. Japan's comments and observations on the Chairperson's conclusions

44. (Chairperson's conclusions, para. 161). The Asian Group , to which Japan belongs, did not decide to make a request to the Chairperson to prepare draft elements.

45. (Chairperson's conclusions, para. 162). The reason why we expressed difficulties in starting the negotiations on the Chairperson's text was that, in addition to what is written here, the Chairperson's proposed elements reflected a number of arguments on which no agreement was reached in the Working Group. Furthermore, the text did not reflect the actual discussions that had taken place in the Working Group up to that point. Consequently, we thought that there was such a wide range of differing opinions on the very basis of the concept of the right to development that it required further discussion and rendered it premature to formulate any concrete conclusions based on an agreement.

46. (Chairperson's conclusions, paras. 165 and 166). Though an agreement was reached on a few clauses after discussion and elaboration of the proposed amendments, a large portion of the draft Chairperson's paper was not able to enjoy the support of all. Not only Japan, nor just the "the five delegations" but many other delegations were not able to support various elements in the draft Chairperson's paper . Japan was ready and eager to participate in a fruitful discussion and made contributions to reach consensus on several paragraphs of the document. This effort of Japan was abruptly interrupted when the Chairperson declared an end of the discussion on 27 February. Japan also regrets that the participants were not even given the opportunity to discuss Japan's paper, "Comments on the draft Chairperson's summary on the right to development", which could have served as valuable input for the discussion.

47. (Report of the Independent Expert, paras. 170 and 171) We are not convinced that there has been "a general appreciation " of the reports of the Independent Expert. As for the "development compact", it is still premature to take account of this new concept because a clear definition has not been agreed upon among all participants of the Working Group.

48. (International action for the realization of the right to development, para. 187). Though we put importance on international cooperation for development there is no consensus on the "duty of international cooperation for the realization of the right to development." We fear that it is not constructive to refer to the Declaration on the Right to Development, in particular to its most contested article, article 3, because it was not able to enjoy consensus. In this connection, we would like to emphasize once again that the right to development is an individual right. This is confirmed in Part I, paragraph 10, of the Vienna Declaration and Programme of Action, and this principle is reaffirmed repeatedly in relevant United Nations documents, including resolution 2000/5 of the Commission on Human Rights.

49. (International action for the realization of the right to development, para. 188). We understand that some countries have concerns on the issues listed here, though we are doubtful if those issues are directly related to human rights. In any case, it is sensible for all of us to discuss these issues if necessary in other appropriate forums where there exist expertise and concrete continuous discussion.

3. Comments on the draft Chairperson's summary on the right to development

50. General comments:

a) The Right to Development is an individual right, not a right of a group or a State, as clearly expressed in the Vienna Declaration and Programme of Action, Part I, paragraph 10;

b) The primary responsibility for the protection, promotion and realization of the right to development lies with each national Government;

c) A progressive method for the realization of the right to development should be employed. However, at any given stage, whether it be in the promotion or implementation of the right to development, Governments should promote conditions that most enable every member of society to realize his or her potential;

d) Countries extending support for development may exchange views with recipient Governments on the measures listed in this document.

51. Human rights. The right to development cannot be fully realized without the guarantee of basic human rights which, in turn, ensure full development of the individual. Conversely, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights (see the Vienna Declaration and Programme of Action, Part I, paragraph 10). The primary responsibility for the protection, promotion and realization of human rights lies with each national Government. To this end, a series of measures should be taken, such as:

a) The promotion of political, civil, social, economic and cultural rights of all people comprising a nation's citizenry, regardless of race, ethnicity, religion, gender, etc.;

b) The promotion of full and equal participation by women in political, civil, economic, social and cultural life and the eradication of all forms of discrimination on the basis of sex;

c) The protection of the rights of workers;

d) The ratification of and full compliance with at least the major human rights treaties.

52. The democratization of each Government is fundamental to the protection and promotion of human rights, and therefore to the right to development as well.

53. Measures should be taken to ensure just, fair, accountable and good governance, most importantly by:

a) The promotion of the rule of law and due process;

b) The realization of participatory government with the holding of free elections;

c) The promotion of freedom of expression including the independence of the media.

54. Domestic strategies. So that all individuals may equally participate in the process of development and enjoy its benefits, each State should manage a market economy responsibly and effectively in a democratic manner by:

    a) Decreasing economic disparities through the adoption of fair measures;

    b) Cracking down on corruption, including a firm legal structure for eradicating corruption;

    c) Taking appropriate measures in those countries lacking development funds to curb the flight of capital;

    d) Maintaining basic economic laws and ordinances that follow an international standard; a legal system that upholds and protects civil contracts is particularly important;

    e) Continued deregulation within various economic spheres while at the same time guaranteeing the conditions for fair competition with anti-trust laws, etc. in order to keep alive the positive aspects of globalization;

    f) Guaranteeing the right to property and participation in economic activity for women, without any form of sexual discrimination whatsoever;

    g) Fostering human resource development.

55. In addition, countries should emphasize support for NGOs so that organizations of civil society participating in economic and social development are strengthened.

56. Intrinsic to and underlying all of the measures listed above in human rights, good governance and a functioning civil society is the predominance of the rule of law. Decent public law and order is indispensable for individuals to engage safely, freely and equally in political and economic activities. To this end:

    a) The administrational system must be accountable, transparent and efficient;

    b) The judicial system must be independent and impartial.

57. International strategies. International cooperation is vital for the realization of the right to development. Notwithstanding the importance of international cooperation, its function is merely that of support for the efforts of the developing countries themselves. As stated above, the subject of the right to development is the individual human person, not an individual group or State. In order for a nation to promote the individual's right to development, it should strive to create an environment conducive to development by following the international economic strategy outlined below:

    a) Developing countries should participate in multinational frameworks, in particular the WTO and in the Agreement on Transparency on Government Procurement;

    b) Economic conditions conducive to attracting direct foreign investment should be established in countries lacking capital for development;

58. All development programmes are important contributors to the realization of the right to development, including the Comprehensive Development Framework, the Development Assistance Framework, the Poverty Reduction Strategy Papers, the Country Assistance Strategies and the Development Partnership Strategy. The role of relevant international organizations in the development aspects of international cooperation is highly esteemed, and a similar role is expected in the future.

59. Conflict prevention. In order to improve the individual's right to development, there must be an international environment of peace and stability. To achieve this aim, it is indispensable that countries striving to realize the right to development themselves pursue mechanisms for conflict prevention.

VIII. COMMENTS BY SWITZERLAND

60. Switzerland is committed to the achievement of the aims of global development reaffirmed at the Millenium Summit, so that the right to development can become a reality for everyone.

61. Switzerland is satisfied with the progress made in the Open-Ended Working Group on the Right to Development and is in favour of continuing the negotiations until consensus is achieved. To this end, we must concentrate on the points on which converging views were expressed during the discussions and which should be reflected in the report of the Working Group.

62. The Independent Expert should consult national, regional and international development actors concerning his proposal for a development compact and refine the concept of the right to development, on the basis of the points on which converging views were expressed during the discussions.

63. The idea expressed by the European Union in its statement of 2 March 2001, concerning a study of the impact of international economic issues on human rights at the national level, is an interesting one.

64. Switzerland also considers it desirable that the question of indicators and reliable sources of information for evaluating progress in the realization of the right to development in general and respect for human rights in particular be further studied.

65. Switzerland supports the views expressed on 2 March by the coordinator of the Western Group on paragraphs 162 and 166 of the Chairperson's conclusions, which do not reflect in an appropriate manner the discussions in the Working Group and do not favour continuation of the work on the right to development.

Annex IV

NGO PROPOSALS FOR THE WORKING GROUP

The undersigned NGOs wish to reiterate that the right to development is a universal, inalienable and indivisible human right that is not subject to conditionality. Civil and political as well as economic, social and cultural rights are equally interdependent in the realization of the right to development in accordance with the Vienna Declaration and Programme of Action.

a) NGOs favour the renewal of the mandate of the Open-Ended Working Group on the Right to Development and support the fruitful exchange of views among different actors, including NGOs/civil society, involved in the implementation of the right to development;

b) NGOs ask to be included if further monitoring mechanisms are established;

c) NGOs stress the importance of the continued involvement with treaty bodies, in particular the Committee on Economic, Social and Cultural Rights, in the Working Group. Specifically, we propose that the interactive dialogue initiated during this week's session continue during the high-level segment of the Economic and Social Council session of July 2001 whose theme is "The role of the United Nations system in support of African initiatives for sustainable development". We also ask that the Chairperson of the Working Group be invited to present the report of the Working Group;

d) NGOs ask for more col :sion and coordination among Governments and international financial organizations/institutions (IFIs), including regular intersectoral exchanges at the national, regional and international levels, to enhance the process of the realization of the right to development;

e) The right to development, and all human rights, should be part of the mandate of all international organizations, including IFIs;

f) NGOs propose that at the next session of the Working Group, further attention be given to the presentation of best practices, including debt relief, as well as regional and national case studies, in order to better highlight the challenges and opportunities related to the realization of the right to development;

g) NGOs stress in particular that women are at the centre of all discussions regarding the realization of the right to development at the national and international levels and that the goal of gender equality is essential to all further proceedings;

h) In terms of the rights to education, adequate food and health, NGOs would like to recommend that a long-term financing system be set up in order to guarantee

sustainable programmes relating to these rights. Priority should also be accorded to research programmes on the link between development and human rights, including human rights related to education, good governance and the struggle against corruption, as well as impunity. Alliances with the private sector might be a way to support education in human rights, ensuring that proper concern is given to the medium- and long-term effects of such programmes on human and economic development;

i) With regard to the technological revolution, NGOs request that international organizations and bilateral aid providers take necessary steps to make information technology an inherent part of each and every development project they help finance and to inform the Working Group and the Economic and Social Council in 2001 and subsequent years of the steps they have taken to bring this about;

j) NGOs recommend that the gaps and barriers (language, gender, age, etc.) be bridged in culturally sensitive and individually empowering ways and affirm that access to information and communication technology is a human right which should be guaranteed as soon as possible;

k) NGOs recommend that the role of indigenous peoples be taken into account in the discussions of the Working Group;

l) NGOs also recommend that the informal sector be taken into account in the right to development. Specifically, we ask that it be made visible in national and international statistics, and that studies be conducted regarding the role, contributions and violations of the rights of migrant, rural, self-employed and home-based workers and micro-entrepreneurs;

m) Finally, NGOs ask the Working Group to take into consideration traditional and cultural practices that violate or impede the realization of the right to development.

Signatories:

African Commission of Health and Human Rights Promoters, Europe-Third World Centre, Franciscans International, François-Xavier Bagnoud Centre for Health and Human Rights, International Council of Women, International Federation of Business and Professional Women, International Federation of University Women, International Organization for the Development of Freedom of Education. World Federation of Methodist and Uniting Church Women, World Union of Catholic Women's Organizations, Zonta International

Annex VI

PROPOSALS FOR FURTHER CONSIDERATION FROM THE FIRST SESSION

The first session of the Working Group on the Right to Development has provided the opportunity for debate on principal themes relevant to the implementation of the right to development. On the basis of the various contributions made during the first session of the Working Group, the Chairperson has established a list of proposals for further consideration.

The second session of the Working Group will consider these and any other proposals, with a view to contributing to the formulation of conclusions and recommendations for inclusion in the final report of the Working Group. The chairperson will take these proposals into consideration in preparation of the work programme of the second session of the Working Group. The list given below does not indicate any priority. The proposals are as follows:

1. Encourage law review and reform to ensure *de jure* equality between men and women and between minorities and the majority.
2. Strengthen democratic participation including the participation of women and minorities.
3. Ensure full participation of civil society in all development planning, analysis and processes.
4. Support public information campaigns on the right to development.
5. Promote the integration of the right to development into national development plans, programmes, poverty reduction strategies, and national plans of action for human rights.
6. The Open-Ended Working Group should provide guidelines and recommendations to the international community (including international organizations, donors, international financial institutions, international trade forums, etc.) on avoidance of violations of the right to development and appropriate international measures for its realization.
7. The Open-Ended Working Group should provide guidance on the integration of the right to development into existing international development initiatives (United Nations Development Assistance Framework/Common Country Assessment (UNDAF/CCA), Heavily Indebted Poor Country Initiative (HIPC), Poverty Reduction Strategy Papers (PRSP), Poverty Reduction and Growth Facility (PRGF), etc.).
8. The Open-Ended Working Group should provide guidelines to the international community on principles for development cooperation based on partnership and rights.
9. The Chairperson of the Open-Ended Working Group might wish to continue to hold informal consultations, including with NGOs, with regard to the programme of work for the Working Group.
10. United Nations agencies and relevant international organizations should increase their participation in the work of the Open-Ended Working Group.

11. International agencies and financial institutions should be called upon to review their own programmes and policies through the lens of the right to development and to report to the Open-Ended Working Group in oral statements on their findings.

12. The Open-Ended Working Group should reaffirm the authority of the Declaration on the Right to Development.

13. The Open-Ended Working Group should reaffirm that States have the first responsibility to promote and protect the right to development.

14. The Open-Ended Working Group should reaffirm the importance of full participation, the rule of law and good governance in the realization of the right to development.

15. The Open-Ended Working Group should reaffirm the importance of international cooperation in the realization of the right to development, and should underscore the need to proceed on the basis of consensus, in the interest of avoiding North-South conflict.

16. The Open-Ended Working Group should reaffirm the importance of approaching international cooperation as an obligation.

17. The Open-Ended Working Group should give emphasis to elaborating concrete measures to realize the right to development that are closely associated with the promotion and protection of economic and social rights.

18. The Open-Ended Working Group should encourage Governments to integrate the right to development into their work.

19. The Open-Ended Working Group should identify appropriate topics for right to development seminars.

20. The Open-Ended Working Group should recognize the valuable role of the High Commissioner for Human Rights in coordinating and advising United Nations agencies on rights-based development and the right to development. OHCHR should provide advice to UNDP, the World Bank, IMF, WIPO, WHO, ILO, WFP, UNICEF and other international organizations, programmes, funds and agencies.

21. Open-Ended Working Group members should encourage their Governments to integrate the right to development into the policies and programmes of the World Bank, IMF, WTO and so on.

22. The Open-Ended Working Group should use the documents of "Copenhagen + 5" and the Millennium Declaration to inform its work.

23. Commitments to development should be seen as commitments to the right to development and be monitored as such.

24. The Open-Ended Working Group should consider practical case studies on the right to development.

25. The Open-Ended Working Group should discuss the subject of indicators and statistics relating to the right to development.

26. The Open-Ended Working Group should emphasize the importance of the equal rights of women to the realization of the right to development.

27. The Open-Ended Working Group should encourage States to strengthen democratic institutions and governmental accountability.

28. The Open-Ended Working Group should recognize the role of a free press in the realization of the right to development.

29. States should strengthen access to primary education for boys and girls and allow women full access to education.

30. States should ensure access to primary health care for women and children.

31. The Open-Ended Working Group should encourage consultations between international financial institutions, bilateral donors and the human rights community on human rights and development.

32. OHCHR should continue high-level consultations with international financial institutions and trade organizations, with a clearer substantive emphasis on the international dimension of the right to development.

33. The mandate of the Open-Ended Working Group should not be expanded but should remain focused on the relationship between human rights and development.

34. The Open-Ended Working Group should provide suggestions to the High Commissioner on her consultations with international financial institutions.

35. The Open-Ended Working Group should give consideration to Commission on Human Rights resolution 2000/64 on good governance.

36. The Independent Expert should give more in-depth analysis on the question of indicators.

37. The Independent Expert should solicit comments from international agencies on his reports.

38. The Open-Ended Working Group should consider the potential role of national action plans and national institutions in the advancement of the right to development.

39. The private sector should be encouraged to participate in discussions on the right to development.

40. OHCHR should inform the Working Group on progress on the Secretary-General's Global Compact.

41. Consideration should be given to the regional dimension of the right to development.

42. A joint working session of the Second and Third Committees of the General Assembly should be convened to consider the implications of the right to development.

43. Meetings at the national level between policy-makers, business, trade unions and NGOs should be encouraged to gather examples of good practice in the field of the right to development.

44. Notions of shared responsibilities and of global partnership in development should be explored.

45. Emphasis should be given to pro-poor growth as a means of implementing the right to development.

46. The responsibility of Government, civil society and the private sector to combat corruption should be emphasized.

47. Poverty reduction strategies should address governance and corruption.

48. Multilateral development agencies should combat corruption in their collection and allocation of resources.

49. The Open-Ended Working Group should emphasize the need for effective global action to fight malaria and HIV/AIDS as well as other diseases.

50. The Open-Ended Working Group should consider the impact of globalization on the enjoyment of the right to development.

51. The Open-Ended Working Group should consider the impact of debt and structural adjustment on the enjoyment of right to development.

52. The Open-Ended Working Group should emphasize the imperative of renewed external funding for development.

53. The Open-Ended Working Group should consider the importance of cooperation for development.

54. A permanent expert follow-up mechanism on the right to development should be established to monitor the international dimensions of the right to development.

55. The Open-Ended Working Group should ensure that universal human rights norms are applied at the international level in the same manner as the international community seeks to apply them at the national level.

56. The Open-Ended Working Group should monitor international commitments by establishing benchmarks/indicators at the international level.

57. OHCHR, together with the Bretton Woods institutions, should hold a seminar in order to review the various development strategies and programmes at both the national and international levels, focusing on the promotion of human rights - in particular on the right to development. The seminar should be mandated to prepare a report which should include a comparative examination of strategies, programmes and projects of the participants, as well as an examination of mechanisms of inter-agency coordination, at the national and international levels.

58. OHCHR should prepare a report focusing on the activities of the United Nations specialized agencies with respect to the right to development, including a comparative examination of strategies, programmes and projects in the field of development as well as an examination of the mechanisms of national and international coordination.

59. The Open-Ended Working Group should support the universal ratification of the major human rights instruments.

60. The Open-Ended Working Group should consider the idea of a "new international cooperation order".

61. The Open-Ended Working Group should consider the promotion of the transfer of technology as a means of encouraging an international environment favourable to development.

62. The Open-Ended Working Group should consider the role of women and girl children in the right to development.

63. A study of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development should be undertaken at the international level.

64. The Open-Ended Working Group should invite to its future sessions the special rapporteurs and Independent Experts relevant to right to development and in particular the Special Rapporteur on violence against women and the Independent Expert on extreme poverty.

65. The Open-Ended Working Group should invite civil society representatives and interested delegations to present concrete views and experiences on their fieldwork in the right to development.

66. The Open-Ended Working Group should facilitate access to information for actors of civil society so that they can actively contribute to national debates and activities concerning development.

67. The Open-Ended Working Group should consider concrete means to increase the participation of civil society in the promotion and realization of right to development.

68. The Open-Ended Working Group should consider the impact of conflict prevention and the arms trade.

69. Support should be given for the system of checks and balances provided by civil society, the media, the judiciary and the legislature as well as support for achieving high standards of corporate governance in the private sector.

70. The Independent Expert is called upon to expand upon the relations between the proposed development compact and existing mechanisms.

71. The Independent Expert is called upon to consider the possibility of a monitoring mechanism.

72. The Independent Expert is called upon to explore the 50/50 concept in relation to the existing 20/20 concept.

73. The Independent Expert is called upon to examine the process of mainstreaming human rights, in particular through the UNDAF/CCA process.

74. The Independent Expert is called upon to review the various indicators of human rights enjoyment (particularly those of UNDP).

75. The Independent Expert is called upon to study how his compact could facilitate the realization of the targets adopted by United Nations conferences, in particular regarding education, health and food.

76. The Independent Expert, in consultation with the relevant human rights mandates, should conduct a detailed study on international obstacles to the realization of the right to development and submit his findings to the Open-Ended Working Group for consideration.

77. The Open-Ended Working Group should mandate the Chairperson to issue the summary report of the present session as an aide-mémoire to be consolidated into one final report to be adopted at the second session of the Working Group.

78. The Open-Ended Working Group should consider and make recommendations on the reduction of military expenditures and the use of funds thus freed for the right to development.

79. The Open-Ended Working Group should encourage a gender perspective in macroeconomic policies.

80. The Open-Ended Working Group should encourage the disaggregation by gender of indicators and statistics.

81. It should be ensured that women's rights are at the centre of poverty strategies.

82. The importance of decent jobs and education for women should be recognized.

83. Unpaid work by women should be counted in GNP.

84. The implementation of basic labour standards should be ensured.

85. The withdrawal of reservations from the Convention on the Elimination of All Forms of Discrimination against Women should be encouraged.

86. Legislation should be adopted and funds allocated to reduce violence against women.

87. Counselling in reproductive and sexual matters should be provided.

88. Legal action should be taken to ensure the election of women to parliament.

89. Legal and other action should be taken to improve women's economic prospects.

90. The elimination of sexual stereotyping should be encouraged.

91. A favourable international environment should be encouraged.

92. The Open-Ended Working Group should consider undertaking country case studies on the right to development.

93. As a pilot project, policies for implementation of the right to development concentrating on the right to food, the right to health and the right to education should be promoted, both on a national and an international level.

94. The Open-Ended Working Group should consider ways of promoting the dissemination of the benefits of technological and scientific progress.

95. OHCHR and the United Nations should play the lead normative role in enhancing the participation of women in the right to development.

96. The Open-Ended Working Group should focus on the implementation of the right to development in the fields of health, education and food.

97. The Open-Ended Working Group should encourage accountability and the sanctioning of violations in the field of the right to development.

98. The right to development should be integrated into national development planning.

99. More consideration should be given to the idea of compacts or solidarity contracts.

100. Consideration should be given to the role of human rights education in advancing the right to development.

101. The right to development should be integrated in MBA degrees, in commercial law courses and in development education.

102. The Open-Ended Working Group should consider the promotion and mobilization of civil society as a means of establishing partnerships for development.

103. The Open-Ended Working Group should consider the question of both rural and urban poverty.

104. The Open-Ended Working Group should consider indigenous peoples' poverty.

105. The Open-Ended Working Group should consider the implications of creating an international solidarity fund to eradicate poverty, concentrating on the rights to food, health, and education.

106. The Open-Ended Working Group should monitor the role of the United Nations in development.

107. The Commission on Human Rights should continue the mandate of the Open-Ended Working Group as a means of monitoring the actions of the relevant international organizations.

108. The Open-Ended Working Group should promote the right of all countries to participate effectively in international economic decision-making processes.

109. The Open-Ended Working Group should recommend that the Commission on Human Rights affirm that international economic decision-making is a human rights issue.

110. The Open-Ended Working Group should encourage internal transparency in the work of the specialized agencies, in particular in the international financial institutions, as well as international regulatory bodies in the area of banking and securities.

111. The Open-Ended Working Group should suggest measures to ensure the effective participation of developing countries in the work of the above institutions and periodically assess progress in this area.

112. The Open-Ended Working Group should analyse existing bilateral or multilateral programmes of knowledge and technology transfer with a view to identifying practices conducive to the realization of the right to development as well as assess the *sufficiency and efficiency* [adequacy and efficacy] of such programmes. The Open-Ended Working Group should draft recommendations to the Commission on Human Rights related to the above, including recommendations that would be transmitted by the Commission on Human Rights to the relevant international organizations.

113. The work of the relevant expert mechanisms of the Commission on Human Rights, treaty bodies and other human rights mechanisms of the United Nations should be oriented towards the issue of equitable opportunities for the developing countries to compete in the global economy.

114. The creation of an international enabling environment, in which commitments to development are viewed as commitments to the right to development and structural obstacles to development are viewed as human rights violations, should be considered.

115. The Open-Ended Working Group should examine ways of promoting access by developing countries for their products to world markets, particularly those of developed countries.

116. OHCHR should consider the possibility of concentrating all its analytical, technical assistance and reporting functions in a single organizational unit devoted exclusively to the right to development.

117. OHCHR should increase, on a more representative basis, the staff working on the right to development with knowledge and expertise relevant to the right to development.

118. OHCHR should receive increased allocations from the regular budget for work on the right to development.

119. The Open-Ended Working Group should consider the design and dissemination of information on possible projects of technical cooperation on the right to development.

120. The Open-Ended Working Group should consider the publication of an annual right to development report as part of the continued right to development follow-up mechanism, to be submitted to the Working Group and successive sessions of the Commission on Human Rights, with the participation of relevant international experts working in different levels.

121. The Open-Ended Working Group should monitor the status of implementation of developmental commitments undertaken by the international community at recent United Nations summits.

122. The Open-Ended Working Group should promote the right of all countries to benefit from full and effective implementation of international commitments.

123. The Open-Ended Working Group should consider fairly specific commitments to implementing the right to development, such as the attainment of the target of 0.7% of GNP as official development assistance (ODA), the transfer of technology, and the provision of financial and technical assistance to developmental objectives.

124. The Independent Experts on structural adjustment programmes and foreign debt should be requested to:

a) Analyse the human rights impact and dimension of the debt programme;
b) Assess the practical sufficiency of existing measures;

c) Propose new comprehensive and sustainable solutions to these problems.

125. The Open-Ended Working Group should examine the priority areas of action on the international level proposed by the World Bank in its latest report and UNDP in its *Human Development Report 2000.*

126. Additional resources should be acquired for establishing a special right to development fund under the auspices of OHCHR. Furthermore, additional resources should be acquired through the design of innovative ways of raising funds from voluntary contributions.

127. The Open-Ended Working Group should work towards the creation of a right to development alliance comprising Governments, NGOs and the relevant international organizations.

128. The Independent Expert should look into the timing and the content of a possible covenant on the right to development.

129. The Open-Ended Working Group should examine the negative impact of unilateral coercive measures on the full realization of the right to development of the countries and populations affected.

130. The Open-Ended Working Group should pay due attention to the negative consequences of sanctions and embargoes on the right to development of the countries and the populations affected. [In a letter to the Chairperson dated 25 September 2000, one delegation objected to the inclusion of this paragraph on the grounds that the Working Group is not the right forum in which to address this issue. The delegation also stated that, if the Working Group were to discuss sanctions, it should not only focus on the negative impact of sanctions, but also examine the reasons behind the imposition of sanctions, especially when it is related to a threat to international peace and security].

131. The Open-Ended Working Group should consider any other issue relevant to the right to development that may arise during its existence.

132. States should establish an adequate domestic environment through the strengthening of judicial systems, the administration of justice, good governance and the development of participatory processes in development.

133. National plans of action should be elaborated integrating all elements of human rights.

134. The Open-Ended Working Group should be presented with examples of country-specific projects and programmes designed to implement the right to development.

135. The Open-Ended Working Group should reflect on the issue of participation by all partners in the setting-up and the functioning of the new mechanisms of the Bretton Woods institutions.

136. The Open-Ended Working Group should discuss the means to encourage the IFIs to pursue their efforts to take into account the opinions of the main beneficiaries of their actions.

137. The Open-Ended Working Group should discuss the paramount importance of strengthening coordination between all international actors.

138. The Open-Ended Working Group should discuss the question of assistance by OHCHR to the setting-up of national strategies encompassing human rights.

139. The Open-Ended Working Group should discuss the means by which States can be regularly informed about the evolution of UNDAF and the programmes of international agencies, for example through the inclusion in their reports of issues related to the right to development.

140. A right to development indicator reflecting the evolution of important issues both at the national and international levels should be elaborated.

141. OHCHR should pursue efforts to establish a close dialogue and cooperation with United nations agencies with a view to strengthening support for the treaty bodies.

142. The contribution of OHCHR in the elaboration of UNDAF and CCA, for example through the compilation of recommendations made by the treaty bodies, should be strengthened.

143. The Open-Ended Working Group should identify ways in which OHCHR could assist the United Nations system to identify ways of encouraging Governments to establish the legal security necessary for economic development.

144. OHCHR's dialogue with the competent institutions should be strengthened in order to mainstream a human rights dimension into the fight against HIV/AIDS and other infectious diseases.

145. The regular budget of OHCHR should be increased.

146. The Open-Ended Working Group should analyse in greater detail the Independent Expert's two reports, including the concept of international compacts, the exploration of how compacts might work as a partnership process (without conditionality), further ideas on the notion of core rights, case studies in countries that have incorporated the right to development in national development/poverty plans, the role of national human rights commissions in the development of development compacts.

147. The Open-Ended Working Group should compile work already completed on human rights indicators.